

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 10, 1998 Revised: _____

Subject: Eligible Surplus Lines Insurers

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Deffenbaugh</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

SB 1316 provides that only those surplus lines insurers that have an application on file with the Department of Insurance before February 28, 1998, may elect to be subject to the lower, alternative surplus requirements previously authorized by 1997 legislation. The 1997 legislation authorized surplus lines insurers meeting certain criteria to have and maintain a \$4 million surplus, rather than be subject to the general requirement of having a \$15 million surplus or, for insurers licensed on or before December 31, 1993, a \$4.5 million surplus at the end of 1997 and specified annual increases reaching \$15 million at the end of 2004. The 1997 act applied only to those surplus lines insurers that (1) are a member of an insurance holding company that also owns a Florida domestic insurer and (2) are in compliance with the requirements of chapter 625, F.S., relating to accounting and investment restrictions of authorized insurers. The department reports that one surplus lines insurer has filed an application for election of the lower surplus requirements by the date specified in SB 1316.

This bill substantially amends section 626.918 of the Florida Statutes.

II. Present Situation:

Surplus lines insurance is insurance coverage provided by an insurance company that does not have a certificate of authority in Florida, but that is approved by the Department of Insurance as an *eligible* surplus lines insurer meeting certain financial and other requirements. In general, surplus lines insurers are exempt from most provisions of the Insurance Code, such as regulation of rates and policy forms, and insolvencies are not covered by any of the guaranty associations created under Florida law. A licensed surplus lines agent may place business with an eligible surplus lines insurer only if the particular coverage is not available from Florida-authorized insurers, after diligent effort by the producing agent, and if certain related requirements are met.

(The Surplus Lines Law is contained in ss. 626.913-626.937, F.S.)

Subject to exceptions enacted in 1997, summarized below, surplus lines insurers approved after January 1, 1994 must have a surplus of at least \$15 million. (s. 626.918, F.S.) This requirement, enacted in 1993, represented a significant increase of the \$2.5 million surplus requirement that previously applied to surplus lines insurers. (ch. 93-410, L.O.F.) For those surplus lines insurers that were eligible (approved) on December 31, 1993, the law phases-in the new surplus requirement by requiring annual, incremental increases, requiring a \$5.5 million surplus by December 31, 1997, a \$6.5 million surplus by December 31, 1998, etc., until December 31, when the \$15 million surplus requirement must be met.

Authorized property and casualty insurers obtaining a certificate of authority in Florida after January 1, 1994, must have a \$5 million surplus when initially licensed (s. 624.407, F.S.), and must thereafter maintain a \$4 million surplus. (s. 624.408, F.S.) For authorized insurers licensed before January 1, 1994, the increase from the former \$2.5 million surplus requirement to the \$4 million requirement is phased-in through 2004.

Legislation enacted in 1997 amended s. 626.918, F.S., relating to standards for eligibility of surplus lines insurers (ch. 97-196, L.O.F.). The 1997 legislation allows a surplus lines insurer to elect to be subject to the minimum surplus requirements applicable to authorized insurers in s. 624.408, F.S., which is \$4 million, rather than the higher requirements applicable to surplus lines insurers generally, which is \$5.5 million currently (as of December 31, 1997), increasing to \$15 million as of December 31, 2004. An insurer making this election must meet two criteria: (1) the insurer must be a member of a holding company which also owns a Florida-domestic insurer, and (2) the insurer must comply with chapter 625, F.S., which governs insurers' accounting and investments. The Department of Insurance reports that as of this date (March 10, 1998) only one insurer has filed for an election to be subject to the lower, alternative surplus requirements, though other insurers would appear to qualify.

III. Effect of Proposed Changes:

SB 1316 provides that only those surplus lines insurers that have an application on file with the Department of Insurance before February 28, 1998, may elect to be subject to the lower, alternative surplus requirements authorized by 1997 legislation.

As explained in more detail above, 1997 legislation allows surplus lines insurers meeting certain criteria to be subject to a \$4 million surplus requirement, rather than the general \$15 million surplus requirement that applies to surplus lines insurers approved on or after January 1, 1994, or the \$5.5 million surplus requirement that currently (as of December 31, 1997) applies to surplus lines insurers approved prior to January 1, 1994, which increases annually to the \$15 million surplus requirement as of December 31, 2004.

The Department of Insurance reports that only one surplus lines insurer has filed for an election to be subject to the lower, alternative surplus requirements as of the date specified in this bill. The bill would preclude any more insurers from making such an election.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Surplus lines insurers that currently may qualify for meeting the lower surplus requirements authorized under current law, would no longer be eligible for the lower surplus if they have not already filed an application by the date specified in the bill. The one surplus lines insurer that has filed for an election may enjoy a competitive advantage to such other insurers. However, by cutting-off the election and applying the higher (regular) surplus requirements to such other insurers, policyholders are provided greater protections against financial impairment or insolvency.

C. Government Sector Impact:

None

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
