

By Senator Holzendorf

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A bill to be entitled
An act relating to eligible surplus lines
insurers; amending s. 626.918, F.S.;
prohibiting the Department of Insurance from
approving certain forms; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 626.918, Florida
Statutes, is amended to read:

626.918 Eligible surplus lines insurers.--
(2) No unauthorized insurer shall be or become an
eligible surplus lines insurer unless made eligible by the
department in accordance with the following conditions:
(a) Eligibility of the insurer must be requested in
writing by a Florida-licensed surplus lines agent;
(b) The insurer must be currently an authorized
insurer in the state or country of its domicile as to the kind
or kinds of insurance proposed to be so placed and must have
been such an insurer for not less than the 3 years next
preceding or must be the wholly owned subsidiary of such
authorized insurer or must be the wholly owned subsidiary of
an already eligible surplus lines insurer as to the kind or
kinds of insurance proposed for a period of not less than the
3 years next preceding. However, the department may waive the
3-year requirement if the insurer provides a product or
service not readily available to the consumers of this state
or has operated successfully for a period of at least 1 year
next preceding and has capital and surplus of not less than
\$25 million;

1 (c) Before granting eligibility, the requesting
2 surplus lines agent or the insurer shall furnish the
3 department with a duly authenticated copy of its current
4 annual financial statement in the English language and with
5 all monetary values therein expressed in United States
6 dollars, at an exchange rate (in the case of statements
7 originally made in the currencies of other countries)
8 then-current and shown in the statement, and with such
9 additional information relative to the insurer as the
10 department may request;

11 (d)1. The insurer must have and maintain surplus as to
12 policyholders of not less than \$15 million; in addition, an
13 alien insurer must also have and maintain in the United States
14 a trust fund for the protection of all its policyholders in
15 the United States under terms deemed by the department to be
16 reasonably adequate, in an amount not less than 5.4 million.
17 Any such surplus as to policyholders or trust fund shall be
18 represented by investments consisting of eligible investments
19 for like funds of like domestic insurers under part II of
20 chapter 625 provided, however, that in the case of an alien
21 insurance company, any such surplus as to policyholders may be
22 represented by investments permitted by the domestic regulator
23 of such alien insurance company if such investments are
24 substantially similar in terms of quality, liquidity, and
25 security to eligible investments for like funds of like
26 domestic insurers under part II of chapter 625;

27 2. For those surplus lines insurers that were eligible
28 on January 1, 1994, and that maintained their eligibility
29 thereafter, the required surplus as to policyholders shall be:

30 a. On December 31, 1994, and until December 30, 1995,
31 \$2.5 million.

1 b. On December 31, 1995, and until December 30, 1996,
2 \$3.5 million.

3 c. On December 31, 1996, and until December 30, 1997,
4 \$4.5 million.

5 d. On December 31, 1997, and until December 30, 1998,
6 \$5.5 million.

7 e. On December 31, 1998, and until December 30, 1999,
8 \$6.5 million.

9 f. On December 31, 1999, and until December 30, 2000,
10 \$8 million.

11 g. On December 31, 2000, and until December 30, 2001,
12 \$9.5 million.

13 h. On December 31, 2001, and until December 30, 2002,
14 \$11 million.

15 i. On December 31, 2002, and until December 30, 2003,
16 \$13 million.

17 j. On December 31, 2003, and thereafter, \$15 million.

18 3. The capital and surplus requirements as set forth
19 in subparagraph 2. do not apply in the case of an insurance
20 exchange created by the laws of individual states, where the
21 exchange maintains capital and surplus pursuant to the
22 requirements of that state, or maintains capital and surplus
23 in an amount not less than \$50 million in the aggregate. For
24 an insurance exchange which maintains funds in the amount of
25 at least \$12 million for the protection of all insurance
26 exchange policyholders, each individual syndicate shall
27 maintain minimum capital and surplus in an amount not less
28 than \$3 million. If the insurance exchange does not maintain
29 funds in the amount of at least \$12 million for the protection
30 of all insurance exchange policyholders, each individual
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1 syndicate shall meet the minimum capital and surplus
2 requirements set forth in subparagraph 2.;

3 4. A surplus lines insurer which is a member of an
4 insurance holding company that includes a member which is a
5 Florida domestic insurer as set forth in its holding company
6 registration statement, as set forth in s. 628.801 and rules
7 adopted ~~promulgated~~ thereunder, may elect to maintain surplus
8 as to policyholders in an amount equal to the requirements of
9 s. 624.408, subject to the requirement that the surplus lines
10 insurer shall at all times be in compliance with the
11 requirements of chapter 625.

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13 The election shall be submitted to the department and shall be
14 effective upon the department's being satisfied that the
15 requirements of subparagraph 4. ~~this sub-subparagraph~~ have
16 been met. The initial date of election shall be the date of
17 department approval. The election approval application shall
18 be on a form adopted by department rule. The department may
19 approve an election form submitted pursuant to subparagraph 4.
20 only if it was on file with the department before February 28,
21 1998;

22 (e) The insurer must be of good reputation as to the
23 providing of service to its policyholders and the payment of
24 losses and claims;

25 (f) The insurer must be eligible, as for authority to
26 transact insurance in this state, under s. 624.404(3); and

27 (g) This subsection does not apply as to unauthorized
28 insurers made eligible under s. 626.917 as to wet marine and
29 aviation risks.

30 Section 2. This act shall take effect upon becoming a
31 law.

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SENATE SUMMARY

Prohibits the Department of Insurance from approving certain election forms pertaining to surplus requirements unless such forms were on file with the department before February 28, 1998.