

Bill No. CS for SB 2522

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Holzendorf moved the following amendment:

Senate Amendment (with title amendment)

On page 16, between lines 20 and 21,

insert:

Section 2. Section 626.923, Florida Statutes, is amended to read:

626.923 Filing copy of policy or certificate.--A surplus lines agent shall, within 30 days after the date of a request by the department or the Florida Surplus Lines Service Office, furnish ~~the department~~ an exact copy of any and all requested policies, including applications, certificates, cover notes, or other forms of confirmation of insurance coverage or any substitutions thereof or endorsements thereto. The department or the Florida Surplus Lines Service Office may also request and the agent shall furnish, within 30 days after the date of the request, the agent's memorandum as to the substance of any change represented by a substitute certificate, cover note, other form of confirmation of insurance coverage, or endorsement as compared with the

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1 coverage as originally placed or issued.

2 Section 3. Section 626.930, Florida Statutes, is
3 amended to read:

4 626.930 Records of surplus lines agent.--

5 (1) Each surplus lines agent shall keep in his or her
6 office in this state a full and true record for a period of 5
7 years of each surplus lines contract, including applications
8 and all certificates, cover notes, and other forms of
9 confirmation of insurance coverage and any substitutions
10 thereof or endorsements thereto relative to said contract
11 procured by the agent and showing such of the following items
12 as may be applicable:

13 (a) Amount of the insurance and perils insured
14 against;

15 (b) Brief general description of property insured and
16 where located;

17 (c) Gross premium charged;

18 (d) Return premium paid, if any;

19 (e) Rate of premium charged upon the several items of
20 property;

21 (f) Effective date of the contract, and the terms
22 thereof;

23 (g) Name and post office address of the insured;

24 (h) Name and home-office address of the insurer;

25 (i) Amount collected from the insured; and

26 (j) Other information as may be required by the
27 department.

28 (2) The record shall at all times be open to
29 examination by the department or the Florida Surplus Lines
30 Service Office without notice and shall be so kept available
31 and open ~~to the department~~ for 5 years next following

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1 expiration or cancellation of the contract.

2 (3) Each surplus lines agent shall maintain all
3 surplus lines business records in his or her general lines
4 agency office, if licensed as a general lines agent, or in his
5 or her managing general agency office, if licensed as a
6 managing general agent or the full-time salaried employee of
7 such general agent.

8 Section 4. Section 626.931, Florida Statutes, is
9 amended to read:

10 626.931 Quarterly report.--

11 (1) Each surplus lines agent shall on or before the
12 end of the month next following each calendar quarter file
13 with the Florida Surplus Lines Service Office an affidavit, on
14 forms as prescribed and furnished by the Florida Surplus Lines
15 Service Office, stating that ~~a verified report of~~ all surplus
16 lines insurance transacted by him or her during such calendar
17 quarter has been submitted to the Florida Surplus Lines
18 Service Office as required.

19 (2) The reports and supporting information shall be in
20 a computer-readable format as determined by the Florida
21 Surplus Lines Service Office ~~department or shall be submitted~~
22 ~~on forms prescribed by the department~~ and shall show:

23 (a) Aggregate gross premiums charged;

24 (b) Aggregate of returned premiums and taxes paid to
25 insureds;

26 (c) Aggregate of net premiums;

27 (d) A listing of all policies, certificates, cover
28 notes, or other forms of confirmation of insurance coverage or
29 any substitutions thereof or endorsements thereto; and

30 (e) Additional information as required by the
31 department or Florida Surplus Lines Service Office.

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1 (3) The report shall include the affidavit of the
2 surplus lines agent, on forms as prescribed and furnished by
3 the Florida Surplus Lines Service Office ~~department~~, as to
4 efforts made to place coverages with authorized insurers and
5 the results thereof.

6 (4) Each foreign insurer accepting premiums ~~which are~~
7 ~~subject to taxes and~~ which are described in this section
8 shall, on or before the end of the month following each
9 calendar quarter, file with the Florida Surplus Lines Service
10 Office a verified report of all surplus lines insurance
11 transacted by such insurer for insurance risks located in this
12 state during such calendar quarter.

13 (5) Each alien insurer accepting premiums ~~which are~~
14 ~~subject to taxes and~~ which are described in this section
15 shall, on or before June 30 of each year, file with the
16 Florida Surplus Lines Service Office a verified report of all
17 surplus lines insurance transacted by such insurer for
18 insurance risks located in this state during the preceding
19 calendar year, provided the first such report shall be with
20 respect to calendar year 1999 ~~1994~~.

21 (6) The Insurance Commissioner shall have the
22 authority to waive the filing requirements described in
23 subsections (4) and (5).

24 (7) Each insurer's report and supporting information
25 shall be in a computer-readable format as determined by the
26 Florida Surplus Lines Service Office ~~department~~ or shall be
27 submitted on forms prescribed by the Florida Surplus Lines
28 Service Office ~~department~~ and shall show for each applicable
29 agent:

30 (a) The aggregate gross Florida premiums charged;

31 (b) The aggregate of returned Florida premiums;

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- 1 (c) The aggregate of net Florida premiums;
- 2 (d) A listing of all policies, certificates, cover
- 3 notes, or other forms of confirmation of insurance coverage or
- 4 any substitutions thereof or endorsements thereto and the
- 5 identifying number; and
- 6 (e) Any additional information required by the
- 7 department or Florida Surplus Lines Service Office.

8 Section 5. Section 626.932, Florida Statutes, is

9 amended to read:

10 626.932 Surplus lines tax.--

11 (1) The premiums charged for surplus lines coverages

12 are subject to a premium receipts tax of 5 percent of all

13 gross premiums charged for such insurance. The surplus lines

14 agent shall collect from the insured the amount of the tax at

15 the time of the delivery of the cover note, certificate of

16 insurance, policy, or other initial confirmation of insurance,

17 in addition to the full amount of the gross premium charged by

18 the insurer for the insurance. The surplus lines agent is

19 prohibited from absorbing such tax or, as an inducement for

20 insurance or for any other reason, rebating all or any part of

21 such tax or of his or her commission.

22 (2)(a) The surplus lines agent shall make payable pay

23 to the Florida Department of Insurance ~~Florida Surplus Lines~~

24 ~~Service Office~~ the tax related to each calendar quarter's

25 business as reported to the Florida Surplus Lines Service

26 Office, and remit the tax to the Florida Surplus Lines Service

27 Office at the same time as provided for the filing of the

28 quarterly affidavit report, under s. 626.931. The Florida

29 Surplus Lines Service Office shall forward to the department

30 the taxes and any interest collected pursuant to paragraph

31 (b), within 10 days of receipt, ~~along with a copy of the~~

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1 ~~quarterly reports received.~~

2 (b) The agent shall pay interest on the amount of any
3 delinquent tax due, at the rate of 9 percent per year,
4 compounded annually, beginning the day the amount becomes
5 delinquent.

6 (3) If a surplus lines policy covers risks or
7 exposures only partially in this state, the tax payable shall
8 be computed on the portion of the premium which is properly
9 allocable to the risks or exposures located in this state.

10 (4) This section does not apply as to insurance of, or
11 with respect to, vessels, cargo, or aircraft written under s.
12 626.917, or as to insurance of risks of the state government
13 or its agencies, or of any county or municipality or of any
14 agency thereof.

15 (5) The department shall deposit 55 percent of all
16 taxes collected under this section to the credit of the
17 Insurance Commissioner's Regulatory Trust Fund. Forty-five
18 percent of all taxes collected under this section shall be
19 deposited into the General Revenue Fund.

20 (6) For the purposes of this section, the term
21 "premium" means the consideration for insurance by whatever
22 name called and includes any assessment, or any membership,
23 policy, survey, inspection, service, or similar fee or charge
24 in consideration for an insurance contract, which items are
25 deemed to be a part of the premium. The per-policy fee
26 authorized by s. 626.916(4) is specifically included within
27 the meaning of the term "premium." However, the service fee
28 imposed pursuant to s. 626.9325 is excluded from the meaning
29 of the term "premium."

30 Section 6. Section 626.933, Florida Statutes, is
31 amended to read:

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1 626.933 Collection of tax and service fee.--If the tax
2 and service fee payable by a surplus lines agent under this
3 Surplus Lines Law is not so paid within the time prescribed,
4 the same shall be recoverable in a suit brought by the
5 department against the surplus lines agent and the surety or
6 sureties on the bond filed by the surplus lines agent under s.
7 626.928.

8 Section 7. Section 626.935, Florida Statutes, is
9 amended to read:

10 626.935 Suspension, revocation, or refusal of surplus
11 lines agent's license.--

12 (1) The department shall deny an application for,
13 suspend, revoke, or refuse to renew the appointment of a
14 surplus lines agent and all other licenses and appointments
15 held by the licensee under this code, upon any of the
16 following grounds:

17 (a) Removal of the licensee's office from the state.

18 (b) Removal of the accounts and records of his or her
19 surplus lines business from this state during the period when
20 such accounts and records are required to be maintained under
21 s. 626.930.

22 (c) Closure of the licensee's office for a period of
23 more than 30 consecutive days.

24 (d) Failure to make and file his or her ~~quarterly~~
25 reports when due as required by s. 626.931.

26 (e) Failure to pay the tax and service fee on surplus
27 lines premiums, as provided for in this Surplus Lines Law.

28 (f) Failure to maintain the bond as required by s.
29 626.928.

30 (g) Suspension, revocation, or refusal to renew or
31 continue the license or appointment as a general lines agent,

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1 service representative, or managing general agent.

2 (h) Lack of qualifications as for an original surplus
3 lines agent's license.

4 (i) Violation of this Surplus Lines Law.

5 (j) For any other applicable cause for which the
6 license of a general lines agent could be suspended, revoked,
7 or refused under s. 626.611.

8 (2) The department may, in its discretion, deny an
9 application for, suspend, revoke, or refuse to renew the
10 license or appointment of any surplus lines agent upon any
11 applicable ground for which a general lines agent's license
12 could be suspended, revoked, or refused under s. 626.621.

13 (3) In the suspension or revocation of, or the refusal
14 to issue or renew, the license or appointment of a surplus
15 lines agent, the department shall follow the same procedures,
16 as applicable, as provided for suspension, revocation, or
17 refusal of licenses of general lines agents, but subject to s.
18 626.936 as to failure to file a quarterly report or pay the
19 tax.

20 (4) The following sections also apply, to the extent
21 so applicable, as to surplus lines agents:

22 (a) Section 626.641.

23 (b) Section 626.651.

24 (c) Section 626.661.

25 (d) Section 626.681.

26 (e) Section 626.691.

27 Section 8. Section 626.936, Florida Statutes, is
28 amended to read:

29 626.936 Failure to file reports ~~report~~ or pay tax or
30 service fee; administrative penalty.--

31 (1) Any licensed surplus lines agent who neglects to

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1 file a report or a quarterly affidavit report in the form and
2 within the time required or provided for in the Surplus Lines
3 Law may be fined up to \$50 per day for each day the neglect
4 continues, beginning the day after the report or quarterly
5 affidavit report was due until the date the report is received
6 by the Florida Surplus Lines Service Office department. All
7 ~~The department shall deposit all~~ sums collected by it under
8 this section shall be deposited into the Insurance
9 Commissioner's Regulatory Trust Fund.

10 (2) Any licensed surplus lines agent who neglects to
11 pay the taxes and service fees as required under the Surplus
12 Lines Law and within the time required may be fined up to \$500
13 per day for each day the failure to pay continues, beginning
14 the day after the tax and service fees were ~~was~~ due. The agent
15 shall pay interest on the amount of any delinquent tax due, at
16 the rate of 9 percent per year, compounded annually, beginning
17 the day the amount becomes delinquent. The department shall
18 deposit all sums collected by it under this section into the
19 Insurance Commissioner's Regulatory Trust Fund.

20 Section 9. Section 626.9361, Florida Statutes, is
21 amended to read:

22 626.9361 Failure to file report; administrative
23 penalty.--Any eligible surplus lines insurer who fails to file
24 a quarterly report in the form and within the time required or
25 provided for in the Surplus Lines Law may be fined up to \$500
26 per day for each day such failure continues, beginning the day
27 after the report was due, until the date the report is
28 received by the Florida Surplus Lines Service Office
29 ~~department~~. Failure to file a quarterly report may also
30 result in withdrawal of eligibility as a surplus lines insurer
31 in this state. All sums collected by the department under this

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1 section shall be deposited into the Insurance Commissioner's
2 Regulatory Trust Fund.

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4 (Redesignate subsequent sections.)

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7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 On page 1, line 2, through page 2, line 6, delete those
10 lines

11

12 and insert:

13 An act relating to insurance; amending s.
14 624.610, F.S.; setting the conditions for the
15 allowance of credit for reinsurance; providing
16 definitions; providing for grounds for denial
17 or revocation of an assuming insurer's
18 accreditation; providing criteria for the
19 disallowance of credit for reinsurance for a
20 ceding insurer; providing for the payment of
21 costs and expenses; providing conditions for
22 the allowance or disallowance of credit for
23 reinsurance for assuming insurers maintaining
24 trust funds in qualified United States
25 financial institutions; providing intent that
26 there is no conflict with arbitration
27 agreements; providing for security; providing
28 for the inclusion of certain health maintenance
29 organizations within the term "ceding insurer";
30 providing conditions for the disallowance of
31 credit with respect to a ceding domestic

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1 insurer; providing conditions for credit for
 2 reinsurance in cases of insolvency; providing
 3 for rights against a reinsurer; providing
 4 prohibitions applying to authorized insurers,
 5 other than certain surplus lines insurance;
 6 providing procedures and information required
 7 for a summary statement of each treaty;
 8 providing for exemptions from requirement of
 9 summary statements; providing for waiver;
 10 providing for cancellation; providing that
 11 there is no credit when there is no transfer of
 12 risk; granting authority to the Department of
 13 Insurance for rulemaking; providing an
 14 effective date for the application of cessions;
 15 amending ss. 626.923, 626.930, 626.931,
 16 626.932, 626.933, 626.935, 626.936, and
 17 626.9361, F.S.; revising the requirements for
 18 surplus lines insurance to provide the same
 19 authority to the Florida Surplus Lines Service
 20 Office that is currently provided to the
 21 Department of Insurance; providing an effective
 22 date.

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