

By Senator Holzendorf

2-1104-00

See CS/HB 339

1                                   A bill to be entitled  
 2           An act relating to surplus lines insurance;  
 3           amending ss. 626.923, 626.930, 626.931,  
 4           626.932, 626.933, 626.935, 626.936, 626.9361,  
 5           and 626.938, F.S.; revising certain  
 6           requirements for surplus lines insurance to  
 7           provide the Florida Surplus Lines Service  
 8           Office with the same authority granted to the  
 9           Department of Insurance; revising certain  
 10          quarterly reporting requirements; providing for  
 11          collection of a service fee; providing a  
 12          penalty for failure to make certain reports and  
 13          pay service fees; providing for an  
 14          administrative fine for such failure; providing  
 15          for disposition of surplus lines taxes and  
 16          service fees; providing an effective date.

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

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 20           Section 1. Section 626.923, Florida Statutes, is  
 21 amended to read:  
 22           626.923 Filing copy of policy or certificate.--A  
 23 surplus lines agent shall, within 30 days after the date of a  
 24 request by the department or the Florida Surplus Lines Service  
 25 Office, furnish ~~the department~~ an exact copy of any and all  
 26 requested policies, including applications, certificates,  
 27 cover notes, or other forms of confirmation of insurance  
 28 coverage or any substitutions thereof or endorsements thereto.  
 29 The department or the Florida Surplus Lines Service Office may  
 30 also request and the agent shall furnish, within 30 days after  
 31 the date of the request, the agent's memorandum as to the

1 substance of any change represented by a substitute  
2 certificate, cover note, other form of confirmation of  
3 insurance coverage, or endorsement as compared with the  
4 coverage as originally placed or issued.

5 Section 2. Subsection (2) of section 616.930, Florida  
6 Statutes, is amended to read:

7 626.930 Records of surplus lines agent.--

8 (2) The record shall at all times be open to  
9 examination by the department or the Florida Surplus Lines  
10 Service Office without notice and shall be so kept available  
11 and open ~~to the department~~ for 5 years next following  
12 expiration or cancellation of the contract.

13 Section 3. Section 626.931, Florida Statutes, is  
14 amended to read:

15 626.931 Agent affidavit and insurer reporting  
16 requirements ~~Quarterly report~~--

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

25 ~~(2) The reports and supporting information shall be in~~  
26 ~~a computer-readable format as determined by the department or~~  
27 ~~shall be submitted on forms prescribed by the department and~~  
28 ~~shall show:~~

29 ~~(a) Aggregate gross premiums charged;~~

30 ~~(b) Aggregate of returned premiums and taxes paid to~~  
31 ~~insureds;~~

1           ~~(c) Aggregate of net 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~~  
5           ~~(e) Additional information as required by the~~  
6 ~~department.~~  
7           (2)~~(3)~~ The report shall include The affidavit of the  
8 surplus lines agent shall include, ~~on forms as prescribed and~~  
9 ~~furnished by the department, as to~~ efforts made to place  
10 coverages with authorized insurers and the results thereof.  
11           (3)~~(4)~~ Each foreign insurer accepting premiums ~~which~~  
12 ~~are subject to taxes and which are described in this section~~  
13 shall, on or before the end of the month following each  
14 calendar quarter, file with the Florida Surplus Lines Service  
15 Office a verified report of all surplus lines insurance  
16 transacted by such insurer for insurance risks located in this  
17 state during such calendar quarter.  
18           (4)~~(5)~~ Each alien insurer accepting premiums ~~which are~~  
19 ~~subject to taxes and which are described in this section~~  
20 shall, on or before June 30 of each year, file with the  
21 Florida Surplus Lines Service Office a verified report of all  
22 surplus lines insurance transacted by such insurer for  
23 insurance risks located in this state during the preceding  
24 calendar year, ~~provided the first such report shall be with~~  
25 ~~respect to calendar year 1994.~~  
26           (5)~~(6)~~ The Insurance Commissioner shall have the  
27 authority to waive the filing requirements described in  
28 subsections (3)~~(4)~~ and (4)~~(5)~~.  
29           (6)~~(7)~~ Each insurer's report and supporting  
30 information shall be in a computer-readable format as  
31 determined by the Florida Surplus Lines Service Office

1 ~~department~~ or shall be submitted on forms prescribed by the  
2 Florida Surplus Lines Service Office ~~department~~ and shall show  
3 for each applicable agent:

4 ~~(a) The aggregate gross Florida premiums charged;~~

5 ~~(b) The aggregate of returned Florida premiums;~~

6 ~~(c) The aggregate of net Florida premiums;~~

7 (a)~~(d)~~ A listing of all policies, certificates, cover  
8 notes, or other forms of confirmation of insurance coverage or  
9 any substitutions thereof or endorsements thereto and the  
10 identifying number; and

11 (b)~~(e)~~ Any additional information required by the  
12 department or Florida Surplus Lines Service Office.

13 Section 4. Paragraph (a) of subsection (2) of section  
14 626.932, Florida Statutes, is amended to read:

15 626.932 Surplus lines tax.--

16 (2)(a) The surplus lines agent shall make payable ~~pay~~  
17 to the Department of Insurance ~~Florida Surplus Lines Service~~  
18 ~~Office~~ the tax related to each calendar quarter's business as  
19 reported to the Florida Surplus Lines Service Office, and  
20 remit the tax to the Florida Surplus Lines Service Office at  
21 the same time as provided for the filing of the quarterly  
22 affidavit ~~report~~, under s. 626.931. The Florida Surplus Lines  
23 Service Office shall forward to the department the taxes and  
24 any interest collected pursuant to paragraph (b), within 10  
25 days of receipt, ~~along with a copy of the quarterly reports~~  
26 ~~received~~.

27 Section 5. Section 626.933, Florida Statutes, is  
28 amended to read:

29 626.933 Collection of tax and service fee.--If the tax  
30 or service fee payable by a surplus lines agent under this  
31 Surplus Lines Law is not so paid within the time prescribed,

1 the same shall be recoverable in a suit brought by the  
2 department against the surplus lines agent and the surety or  
3 sureties on the bond filed by the surplus lines agent under s.  
4 626.928.

5 Section 6. Paragraphs (d) and (e) of subsection (1) of  
6 section 626.935, Florida Statutes, are amended to read:

7 626.935 Suspension, revocation, or refusal of surplus  
8 lines agent's license.--

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

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

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

18 Section 7. Section 626.936, Florida Statutes, is  
19 amended to read:

20 626.936 Failure to file reports ~~report~~ or pay tax or  
21 service fee; administrative penalty.--

22 (1) Any licensed surplus lines agent who neglects to  
23 file a ~~quarterly~~ report or an affidavit in the form and within  
24 the time required or provided for in the Surplus Lines Law may  
25 be fined up to \$50 per day for each day the neglect continues,  
26 beginning the day after the ~~quarterly~~ report or affidavit was  
27 due until the date the report or affidavit is received ~~by the~~  
28 ~~department~~. ~~The department shall deposit~~ All sums collected  
29 ~~by it~~ under this section shall be deposited into the Insurance  
30 Commissioner's Regulatory Trust Fund.

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

11           Section 8. Section 626.9361, Florida Statutes, is  
12 amended to read:

13           626.9361 Failure to file report; administrative  
14 penalty.--Any eligible surplus lines insurer who fails to file  
15 a ~~quarterly~~ report in the form and within the time required or  
16 provided for in the Surplus Lines Law may be fined up to \$500  
17 per day for each day such failure continues, beginning the day  
18 after the report was due, until the date the report is  
19 received ~~by the department~~. Failure to file a ~~quarterly~~  
20 report may also result in withdrawal of eligibility as a  
21 surplus lines insurer in this state. All sums collected by the  
22 department under this section shall be deposited into the  
23 Insurance Commissioner's Regulatory Trust Fund.

24           Section 9. Subsections (1), (3), (4), and (10) of  
25 section 626.938, Florida Statutes, are amended to read:

26           626.938 ~~Report and tax of~~ Independently procured  
27 coverages.--

28           (1) Every insured who in this state procures or causes  
29 to be procured or continues or renews insurance with an  
30 unauthorized foreign or alien insurer, or any self-insurer who  
31 in this state so procures or continues excess loss,

1 catastrophe, or other insurance, upon a subject of insurance  
2 resident, located, or to be performed within this state, other  
3 than insurance procured through a surplus lines agent pursuant  
4 to the Surplus Lines Law of this state or exempted from tax  
5 under s. 626.932(4), shall, within 30 days after the date such  
6 insurance was so procured, continued, or renewed, file a  
7 report of the same with the Florida Surplus Lines Service  
8 Office ~~department~~ in writing and upon forms designated by the  
9 Florida Surplus Lines Service Office ~~department~~ and furnished  
10 to such an insured upon request, or in a computer readable  
11 format as determined by the Florida Surplus Lines Service  
12 Office. The report shall show the name and address of the  
13 insured or insureds, the name and address of the insurer, the  
14 subject of the insurance, a general description of the  
15 coverage, the amount of premium currently charged therefor,  
16 and such additional pertinent information as is reasonably  
17 requested by the Florida Surplus Lines Service Office  
18 ~~department~~.

19 (3) For the general support of the government of this  
20 state, there is levied upon the obligation, chose in action,  
21 or right represented by the premium charged for such insurance  
22 a tax at the rate of 5 percent of the gross amount of such  
23 premium and a 0.3 percent service fee pursuant to s. 626.9325.  
24 The insured shall withhold the amount of the tax and service  
25 fee from the amount of premium charged by and otherwise  
26 payable to the insurer for such insurance. ~~and, Within 30~~  
27 days after the insurance ~~is was so~~ procured, continued, or  
28 renewed, and simultaneously ~~coincidentally~~ with the filing of  
29 the report provided for in subsection (1) with the Florida  
30 Surplus Lines Service Office ~~department of the report provided~~  
31 ~~for in subsection (1)~~, the insured shall make payable to the

1 Department of Insurance ~~pay~~ the amount of the tax and make  
2 payable to the Florida Surplus Lines Service Office the amount  
3 of the service fee. The insured shall remit the tax and the  
4 service fee to the Florida Surplus Lines Service Office  
5 ~~department~~. The Florida Surplus Lines Service Office shall  
6 forward to the department the taxes, and any interest  
7 collected pursuant to subsection (5), within 10 days after  
8 receipt.

9 (4) If the insured fails to withhold from the premium  
10 the amount of tax and the service fee herein levied, the  
11 insured shall be liable for the amount thereof and shall pay  
12 that amount ~~the same~~ to the Florida Surplus Lines Service  
13 Office ~~department~~ within the time stated in subsection (3).

14 (10) Each report and supporting information shall be  
15 in a computer-readable format as determined by the Florida  
16 Surplus Lines Service Office ~~department~~ or shall be submitted  
17 on forms prescribed by the Florida Surplus Lines Service  
18 Office ~~department~~.

19 Section 10. This act shall take effect upon becoming a  
20 law.

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SENATE SUMMARY

Modifies various provisions of the surplus lines insurance law. Requires a surplus lines agent to furnish upon request a copy of any policy or certificate to the Department of Insurance or the Florida Surplus Lines Service Office. Provides for examination of records by the department or the office. Provides for the submission of quarterly agent affidavits rather than verified reports on insurance written. Provides that the surplus lines tax must be made payable to the department and remitted to the office. Provides procedure for collection of service fees by the department. Authorizes the imposition of a fine or the revocation of license for failure to pay the service fee or make the quarterly affidavits or reports. Provides for the report of independently procured coverages to the office rather than the department. Imposes a service fee on such coverage payable by the insured.

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