

By Representative Bainter

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.

17

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

19

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 Quarterly report.--

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

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

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

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

31 ~~(c) Aggregate of net premiums;~~

1       ~~(d) A listing of all policies, certificates, cover~~  
2 ~~notes, or other forms of confirmation of insurance coverage or~~  
3 ~~any substitutions thereof or endorsements thereto; and~~

4       ~~(e) Additional information as required by the~~  
5 ~~department.~~

6       (2)~~(3)~~ ~~The report shall include~~ The affidavit of the  
7 surplus lines agent shall include, ~~on forms as prescribed and~~  
8 ~~furnished by the department, as to~~ efforts made to place  
9 coverages with authorized insurers and the results thereof.

10       (3)~~(4)~~ Each foreign insurer accepting premiums ~~which~~  
11 ~~are subject to taxes and~~ which are described in this section  
12 shall, on or before the end of the month following each  
13 calendar quarter, file with the Florida Surplus Lines Service  
14 Office a verified report of all surplus lines insurance  
15 transacted by such insurer for insurance risks located in this  
16 state during such calendar quarter.

17       (4)~~(5)~~ Each alien insurer accepting premiums ~~which are~~  
18 ~~subject to taxes and~~ which are described in this section  
19 shall, on or before June 30 of each year, file with the  
20 Florida Surplus Lines Service Office a verified report of all  
21 surplus lines insurance transacted by such insurer for  
22 insurance risks located in this state during the preceding  
23 calendar year, ~~provided the first such report shall be with~~  
24 ~~respect to calendar year 1994.~~

25       (5)~~(6)~~ The Insurance Commissioner shall have the  
26 authority to waive the filing requirements described in  
27 subsections (3)~~(4)~~ and (4)~~(5)~~.

28       (6)~~(7)~~ Each insurer's report and supporting  
29 information shall be in a computer-readable format as  
30 determined by the Florida Surplus Lines Service Office  
31 ~~department~~ or shall be submitted on forms prescribed by the

1 Florida Surplus Lines Service Office ~~department~~ and shall show  
2 for each applicable agent:

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

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

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

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

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

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

14 626.932 Surplus lines tax.--

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

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

28 626.933 Collection of tax and service fee.--If the tax  
29 and service fee payable by a surplus lines agent under this  
30 Surplus Lines Law is not so paid within the time prescribed,  
31 the same shall be recoverable in a suit brought by the

1 department against the surplus lines agent and the surety or  
2 sureties on the bond filed by the surplus lines agent under s.  
3 626.928.

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

6 626.935 Suspension, revocation, or refusal of surplus  
7 lines agent's license.--

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

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

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

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

19 626.936 Failure to file reports ~~report~~ or pay tax or  
20 service fee; administrative penalty.--

21 (1) Any licensed surplus lines agent who neglects to  
22 file a report or a quarterly affidavit ~~report~~ in the form and  
23 within the time required or provided for in the Surplus Lines  
24 Law may be fined up to \$50 per day for each day the neglect  
25 continues, beginning the day after the report or quarterly  
26 affidavit ~~report~~ was due until the date the report is received  
27 by the Florida Surplus Lines Service Office ~~department~~. ~~The~~  
28 ~~department shall deposit~~ All sums collected ~~by it~~ under this  
29 section shall be deposited into the Insurance Commissioner's  
30 Regulatory Trust Fund.  
31

1           (2) Any licensed surplus lines agent who neglects to  
2 pay the taxes and 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 and 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 Florida Surplus Lines Service Office  
20 ~~department~~. Failure to file a ~~quarterly~~ report may also  
21 result in withdrawal of eligibility as a surplus lines insurer  
22 in this state. All sums collected by the department under this  
23 section shall be deposited into the Insurance Commissioner's  
24 Regulatory Trust Fund.

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

27           626.938 Report and tax of independently procured  
28 coverages.--

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

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

20 (3) For the general support of the government of this  
21 state, there is levied upon the obligation, chose in action,  
22 or right represented by the premium charged for such insurance  
23 a tax at the rate of 5 percent of the gross amount of such  
24 premium and a 0.3 percent service fee pursuant to s. 626.9325.  
25 The insured shall withhold the amount of the tax and service  
26 fee from the amount of premium charged by and otherwise  
27 payable to the insurer for such insurance; and, within 30 days  
28 after the insurance was so procured, continued, or renewed,  
29 and coincidentally with the filing with the Florida Surplus  
30 Lines Service Office ~~department~~ of the report provided for in  
31 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 and remit the tax and the service fee to  
4 the Florida Surplus Lines Service Office ~~department~~. The  
5 Florida Surplus Lines Service Office shall forward to the  
6 department the taxes, and any interest collected pursuant to  
7 subsection (5), within 10 days after receipt.

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

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

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

20 \*\*\*\*\*

21 HOUSE SUMMARY

22  
23 Revises requirements for surplus lines insurance to  
24 provide the Florida Surplus Lines Service Office with the  
25 same authority granted to the Department of Insurance.  
26 Revises quarterly reporting requirements. Provides for  
27 collection of a service fee. Provides a penalty for  
28 failure to make required reports and pay service fees and  
29 provides for an administrative fine for such failure.  
30 Provides for disposition of surplus lines taxes and  
31 service fees. See bill for details.