

By the Committee on Insurance and 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.

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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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