

By the Committee on Insurance and Representative Crow

1 A bill to be entitled
 2 An act relating to surplus lines insurance;
 3 amending s. 626.918, F.S.; revising certain
 4 eligibility requirements; amending s. 626.921,
 5 F.S.; deleting certain reporting requirements;
 6 amending ss. 626.923, 626.930, 626.931,
 7 626.932, 626.933, 626.935, 626.936, 626.9361,
 8 and 626.938, F.S.; revising certain
 9 requirements for surplus lines insurance to
 10 provide the Florida Surplus Lines Service
 11 Office with the same authority granted to the
 12 Department of Insurance; revising certain
 13 quarterly reporting requirements; providing for
 14 collection of a service fee; providing a
 15 penalty for failure to make certain reports and
 16 pay service fees; providing for an
 17 administrative fine for such failure; providing
 18 for disposition of surplus lines taxes and
 19 service fees; providing an effective date.

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

22
 23 Section 1. Paragraph (a) of subsection (2) of section
 24 626.918, Florida Statutes, is amended to read:

25 626.918 Eligible surplus lines insurers.--

26 (2) No unauthorized insurer shall be or become an
 27 eligible surplus lines insurer unless made eligible by the
 28 department in accordance with the following conditions:

29 (a) Eligibility of the insurer must be requested in
 30 writing by Florida Surplus Lines Service Office ~~a~~
 31 ~~Florida-licensed surplus lines agent;~~

1 Section 2. Subsection (2) of section 626.921, Florida
2 Statutes, is amended to read:

3 626.921 Florida Surplus Lines Service Office.--

4 (2) All surplus lines agents shall, as a condition of
5 holding a license as a surplus lines agent in this state, be
6 deemed to be members of this association and shall report to
7 and file with the service office a copy of or information on
8 each surplus lines insurance policy or document as provided in
9 the plan of operation adopted under subsection (5). ~~Upon~~
10 ~~receipt of any claim notice reported under a surplus lines~~
11 ~~policy which is subject to the filing requirements of this~~
12 ~~section, the insurer, or an adjuster representing the insurer,~~
13 ~~must advise the service office of such claim, identifying the~~
14 ~~policy under which coverage is claimed, and the service office~~
15 ~~shall determine whether the policy has been filed as required~~
16 ~~by this section.~~The service office shall immediately report
17 the particulars of any unfiled policy to the department for
18 enforcement of compliance with the Florida Surplus Lines Law.

19 Section 3. Section 626.923, Florida Statutes, is
20 amended to read:

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

1 certificate, cover note, other form of confirmation of
2 insurance coverage, or endorsement as compared with the
3 coverage as originally placed or issued.

4 Section 4. Subsection (2) of section 626.930, Florida
5 Statutes, is amended to read:

6 626.930 Records of surplus lines agent.--

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

12 Section 5. Section 626.931, Florida Statutes, is
13 amended to read:

14 626.931 Agent affidavit and insurer reporting
15 requirements ~~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 6. 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 7. Section 626.933, Florida Statutes, is
27 amended to read:

28 626.933 Collection of tax and service fee.--If the tax
29 or 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 8. 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 affidavit or
14 ~~quarterly~~ reports when due as required by s. 626.931.

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

17 Section 9. 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 ~~quarterly~~ report or an affidavit in the form and within
23 the time required or provided for in the Surplus Lines Law may
24 be fined up to \$50 per day for each day the neglect continues,
25 beginning the day after the ~~quarterly~~ report or affidavit was
26 due until the date the report or affidavit is received ~~by the~~
27 ~~department. The department shall deposit~~ All sums collected
28 ~~by it~~ under this section shall be deposited into the Insurance
29 Commissioner's Regulatory Trust Fund.

30 (2) Any licensed surplus lines agent who neglects to
31 pay the taxes or service fees as required under the Surplus

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

9 Section 10. Section 626.9361, Florida Statutes, is
10 amended to read:

11 626.9361 Failure to file report; administrative
12 penalty.--Any eligible surplus lines insurer who fails to file
13 a ~~quarterly~~ report in the form and within the time required or
14 provided for in the Surplus Lines Law may be fined up to \$500
15 per day for each day such failure continues, beginning the day
16 after the report was due, until the date the report is
17 received ~~by the department~~. Failure to file a ~~quarterly~~
18 report may also result in withdrawal of eligibility as a
19 surplus lines insurer in this state. All sums collected by the
20 department under this section shall be deposited into the
21 Insurance Commissioner's Regulatory Trust Fund.

22 Section 11. Subsections (1), (3), (4), and (10) of
23 section 626.938, Florida Statutes, are amended to read:

24 626.938 ~~Report and tax of~~ Independently procured
25 coverages.--

26 (1) Every insured who in this state procures or causes
27 to be procured or continues or renews insurance with an
28 unauthorized foreign or alien insurer, or any self-insurer who
29 in this state so procures or continues excess loss,
30 catastrophe, or other insurance, upon a subject of insurance
31 resident, located, or to be performed within this state, other

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

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

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

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

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

17 Section 12. This act shall take effect upon becoming a
18 law.

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