

By Senator Holzendorf

2-423A-01

1 A bill to be entitled
 2 An act relating to surplus lines insurance;
 3 amending ss. 626.916, 626.923, 626.930,
 4 626.931, 626.932, 626.933, 626.935, 626.936,
 5 626.9361, 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; removing limits on
 10 fees that may be charged with respect to
 11 certain policies certified for export; revising
 12 certain quarterly reporting requirements;
 13 providing for collection of a service fee;
 14 providing a penalty for failure to make certain
 15 reports and pay service fees; providing for an
 16 administrative fine for such failure; providing
 17 for disposition of surplus lines taxes and
 18 service fees; providing an effective date.

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

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 22 Section 1. Subsection (4) of section 626.916, Florida
 23 Statutes, is amended to read:

24 626.916 Eligibility for export.--
 25 (4) A reasonable per-policy fee, ~~not to exceed \$25,~~
 26 may be charged by the filing surplus lines agent for each
 27 policy certified for export.

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

30 626.923 Filing copy of policy or certificate.--A
 31 surplus lines agent shall, within 30 days after the date of a

1 request by the department or the Florida Surplus Lines Service
2 Office, furnish ~~the department~~ an exact copy of any and all
3 requested policies, including applications, certificates,
4 cover notes, or other forms of confirmation of insurance
5 coverage or any substitutions thereof or endorsements thereto.
6 The department or the Florida Surplus Lines Service Office may
7 also request and the agent shall furnish, within 30 days after
8 the date of the request, the agent's memorandum as to the
9 substance of any change represented by a substitute
10 certificate, cover note, other form of confirmation of
11 insurance coverage, or endorsement as compared with the
12 coverage as originally placed or issued.

13 Section 3. Subsection (2) of section 616.930, Florida
14 Statutes, is amended to read:

15 626.930 Records of surplus lines agent.--

16 (2) The record shall at all times be open to
17 examination by the department or the Florida Surplus Lines
18 Service Office without notice and shall be so kept available
19 and open ~~to the department~~ for 5 years next following
20 expiration or cancellation of the contract.

21 Section 4. Section 626.931, Florida Statutes, is
22 amended to read:

23 626.931 Agent affidavit and insurer reporting
24 requirements ~~Quarterly report~~--

25 (1) Each surplus lines agent shall on or before the
26 end of the month next following each calendar quarter file
27 with the Florida Surplus Lines Service Office an affidavit, on
28 forms as prescribed and furnished by the Florida Surplus Lines
29 Service Office, stating that ~~a verified report of~~ all surplus
30 lines insurance transacted by him or her during such calendar
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1 quarter has been submitted to the Florida Surplus Lines
2 Service Office as required.

3 ~~(2) The reports and supporting information shall be in~~
4 ~~a computer-readable format as determined by the department or~~
5 ~~shall be submitted on forms prescribed by the department and~~
6 ~~shall show:~~

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

8 ~~(b) Aggregate of returned premiums and taxes paid to~~
9 ~~insureds;~~

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

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

14 ~~(e) Additional information as required by the~~
15 ~~department.~~

16 (2)(3) ~~The report shall include~~ The affidavit of the
17 surplus lines agent shall include, ~~on forms as prescribed and~~
18 ~~furnished by the department, as to~~ efforts made to place
19 coverages with authorized insurers and the results thereof.

20 (3)(4) ~~Each foreign insurer accepting premiums which~~
21 ~~are subject to taxes and which are described in this section~~
22 shall, on or before the end of the month following each
23 calendar quarter, file with the Florida Surplus Lines Service
24 Office a verified report of all surplus lines insurance
25 transacted by such insurer for insurance risks located in this
26 state during such calendar quarter.

27 (4)(5) ~~Each alien insurer accepting premiums which are~~
28 ~~subject to taxes and which are described in this section~~
29 shall, on or before June 30 of each year, file with the
30 Florida Surplus Lines Service Office a verified report of all
31 surplus lines insurance transacted by such insurer for

1 insurance risks located in this state during the preceding
2 calendar year, ~~provided the first such report shall be with~~
3 ~~respect to calendar year 1994.~~

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

7 (6)~~(7)~~ Each insurer's report and supporting
8 information shall be in a computer-readable format as
9 determined by the Florida Surplus Lines Service Office
10 ~~department~~ or shall be submitted on forms prescribed by the
11 Florida Surplus Lines Service Office department and shall show
12 for each applicable agent:

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

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

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

16 (a)~~(d)~~ A listing of all policies, certificates, cover
17 notes, or other forms of confirmation of insurance coverage or
18 any substitutions thereof or endorsements thereto and the
19 identifying number; and

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

22 Section 5. Paragraph (a) of subsection (2) of section
23 626.932, Florida Statutes, is amended to read:

24 626.932 Surplus lines tax.--

25 (2)(a) The surplus lines agent shall make payable pay
26 to the Department of Insurance ~~Florida Surplus Lines Service~~
27 ~~Office~~ the tax related to each calendar quarter's business as
28 reported to the Florida Surplus Lines Service Office, and
29 remit the tax to the Florida Surplus Lines Service Office at
30 the same time as provided for the filing of the quarterly
31 affidavit report, under s. 626.931. The Florida Surplus Lines

1 Service Office shall forward to the department the taxes and
2 any interest collected pursuant to paragraph (b), within 10
3 days of receipt, ~~along with a copy of the quarterly reports~~
4 ~~received.~~

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

7 626.933 Collection of tax and service fee.--If the tax
8 or service fee payable by a surplus lines agent under this
9 Surplus Lines Law is not so paid within the time prescribed,
10 the same shall be recoverable in a suit brought by the
11 department against the surplus lines agent and the surety or
12 sureties on the bond filed by the surplus lines agent under s.
13 626.928.

14 Section 7. Paragraphs (d) and (e) of subsection (1) of
15 section 626.935, Florida Statutes, are amended to read:

16 626.935 Suspension, revocation, or refusal of surplus
17 lines agent's license.--

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

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

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

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.--

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1 (1) Any licensed surplus lines agent who neglects to
2 file a ~~quarterly~~ report or an affidavit in the form and within
3 the time required or provided for in the Surplus Lines Law may
4 be fined up to \$50 per day for each day the neglect continues,
5 beginning the day after the ~~quarterly~~ report or affidavit was
6 due until the date the report or affidavit is received ~~by the~~
7 ~~department~~. ~~The department shall deposit~~ All sums collected
8 ~~by it~~ under 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 or 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 or 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 department~~. Failure to file a ~~quarterly~~
29 report may also result in withdrawal of eligibility as a
30 surplus lines insurer in this state. All sums collected by the
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1 department under this section shall be deposited into the
2 Insurance Commissioner's Regulatory Trust Fund.

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

5 626.938 Report and tax of independently procured
6 coverages.--

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

29 (3) For the general support of the government of this
30 state, there is levied upon the obligation, chose in action,
31 or right represented by the premium charged for such insurance

1 a tax at the rate of 5 percent of the gross amount of such
2 premium and a 0.3 percent service fee pursuant to s. 626.9325.
3 The insured shall withhold the amount of the tax and service
4 fee from the amount of premium charged by and otherwise
5 payable to the insurer for such insurance. ~~and,~~ Within 30
6 days after the insurance is ~~is was so~~ procured, continued, or
7 renewed, and simultaneously coincidentally with the filing of
8 the report provided for in subsection (1) with the Florida
9 Surplus Lines Service Office department of the report provided
10 for in subsection (1), the insured shall make payable to the
11 Department of Insurance pay the amount of the tax and make
12 payable to the Florida Surplus Lines Service Office the amount
13 of the service fee. The insured shall remit the tax and the
14 service fee to the Florida Surplus Lines Service Office
15 department. The Florida Surplus Lines Service Office shall
16 forward to the department the taxes, and any interest
17 collected pursuant to subsection (5), within 10 days after
18 receipt.

19 (4) If the insured fails to withhold from the premium
20 the amount of tax and the service fee herein levied, the
21 insured shall be liable for the amount thereof and shall pay
22 that amount the same to the Florida Surplus Lines Service
23 Office department within the time stated in subsection (3).

24 (10) Each report and supporting information shall be
25 in a computer-readable format as determined by the Florida
26 Surplus Lines Service Office department or shall be submitted
27 on forms prescribed by the Florida Surplus Lines Service
28 Office department.

29 Section 11. This act shall take effect upon becoming a
30 law.

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SENATE SUMMARY

Revises requirements for surplus lines insurance to provide the Florida Surplus Lines Service Office with the same authority granted to the Department of Insurance. Revises quarterly reporting requirements. Removes the limits on fees charged for policies certified for export. Provides for collection of a service fee. Provides a penalty for failure to make required reports and pay service fees and provides for an administrative fine for such failure. Provides for disposition of surplus lines taxes and service fees.