

By the Committee on Banking and Insurance; and Senator Garcia

597-2278-05

1    A bill to be entitled

2                    An act relating to insurance; amending s.

3                    626.916, F.S.; providing that the Office of

4                    Insurance Regulation may by order declare

5                    classes of insurance eligible for export;

6                    providing that such an order continues in

7                    effect until vacated or modified; amending s.

8                    626.938, F.S.; providing that an insured's

9                    representative may file independently procured

10                  coverage with the service office and remit

11                  taxes and fees; amending s. 628.511, F.S.;

12                  revising the definitions of the terms "clearing

13                  corporation" and "custodian"; deleting

14                  definitions of the terms "book entry system"

15                  and "member bank" and making conforming

16                  changes; amending s. 943.135, F.S.; revising

17                  the presumption of disability for purposes of

18                  workers compensation and establishing

19                  tobacco-use standards; providing an effective

20                  date.

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

24                  Section 1. Subsection (2) of section 626.916, Florida  
25 Statutes, is amended to read:

26                  626.916 Eligibility for export.--

27                  (2) The office ~~commission~~ may by order ~~rule~~ declare

28 eligible for export generally, and notwithstanding the

29 provisions of ~~paragraphs (a), (b), (c), and (d)~~ of subsection

30 (1), any class or classes of insurance coverage or risk for

31 which it finds, after a hearing, that there is no reasonable

1 or adequate market among authorized insurers. Any such order  
2 ~~rules~~ shall continue in effect until vacated or modified by  
3 further order of the office during the existence of the  
4 ~~conditions upon which predicated, but subject to termination~~  
5 ~~by the commission.~~

6 Section 2. Subsections (1), (3), and (4) of section  
7 626.938, Florida Statutes, are amended to read:

8 626.938 Report and tax of independently procured  
9 coverages.--

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

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1           (3) For the general support of the government of this  
2 state, there is levied upon the obligation, chose in action,  
3 or right represented by the premium charged for such insurance  
4 a tax at the rate of 5 percent of the gross amount of such  
5 premium and a 0.3 percent service fee pursuant to s. 626.9325.  
6 The insured or the insured's representative shall withhold the  
7 amount of the tax and service fee from the amount of premium  
8 charged by and otherwise payable to the insurer for such  
9 insurance. Within 30 days after ~~the insurance is procured,~~  
10 ~~continued, or renewed, and simultaneously with~~ the filing of  
11 the report provided for in subsection (1) with the Florida  
12 Surplus Lines Service Office, the insured or the insured's  
13 representative shall make payable to the department the amount  
14 of the tax and make payable to the Florida Surplus Lines  
15 Service Office the amount of the service fee. The insured or  
16 the insured's representative shall remit the tax and the  
17 service fee to the Florida Surplus Lines Service Office. The  
18 Florida Surplus Lines Service Office shall forward to the  
19 department the taxes, and any interest collected pursuant to  
20 subsection (5), within 10 days after receipt.

21           (4) If the insured or the insured's representative  
22 fails to withhold from the premium the amount of tax and the  
23 service fee herein levied, the insured shall be liable for the  
24 amount thereof and shall pay that amount to the Florida  
25 Surplus Lines Service Office within the time stated in  
26 subsection (3).

27           Section 3. Section 628.511, Florida Statutes, is  
28 amended to read:

29           628.511 Clearing corporations ~~Book entry accounting~~  
30 ~~system.--~~

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1           (1) The purpose of this section is to authorize  
2 domestic insurers to utilize modern systems for holding and  
3 transferring securities without physical delivery of  
4 securities certificates, subject to appropriate rules of the  
5 commission.

6           (2) The following terms are defined for use in this  
7 section:

8           (a) "Securities" means instruments as defined in s.  
9 678.1021.

10           (b) "Clearing corporation" means a clearing  
11 corporation as defined in s. 678.1021. The term "clearing  
12 corporation" also includes "Treasury/Reserve Automated Debt  
13 Entry Securities System" and "Treasury Direct" book-entry  
14 securities systems established pursuant to 31 U.S.C. ss. 3100  
15 et seq., 12 U.S.C. 391 and 5 U.S.C. 301.

16           (c) "Custodian"~~"Direct participant"~~ means a national  
17 bank, state bank, ~~or~~ trust company, or broker/dealer that  
18 ~~which maintains an account in its name in a clearing~~  
19 ~~corporation and through which an insurance company~~  
20 participates in a clearing corporation.

21           ~~(d) "Federal Reserve book entry system" means the~~  
22 ~~computerized systems sponsored by the United States Department~~  
23 ~~of the Treasury and agencies and instrumentalities of the~~  
24 ~~United States for holding and transferring securities of the~~  
25 ~~United States Government and such agencies and~~  
26 ~~instrumentalities, respectively, in Federal Reserve banks~~  
27 ~~through banks which are members of the Federal Reserve System~~  
28 ~~or which otherwise have access to such computerized systems.~~

29           ~~(e) "Member bank" means a national bank, state bank or~~  
30 ~~trust company which is a member of the Federal Reserve System~~  
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1 ~~and through which an insurer participates in the Federal~~  
2 ~~Reserve book entry system.~~

3           (3) Notwithstanding any other provision of law, a  
4 domestic insurer may deposit or arrange for the deposit of  
5 securities held in or purchased for its general account and  
6 its separate accounts in a clearing corporation ~~or in the~~  
7 ~~Federal Reserve book entry system.~~ When securities are  
8 deposited with a clearing corporation, certificates  
9 representing securities of the same class of the same issuer  
10 may be merged and held in bulk in the name of the nominee of  
11 such clearing corporation with any other securities deposited  
12 with such clearing corporation by any person, regardless of  
13 the ownership of such securities, and certificates  
14 representing securities of small denominations may be merged  
15 into one or more certificates of larger denominations. The  
16 records of any custodian bank through which an insurer holds  
17 securities ~~in the Federal Reserve book entry system, and the~~  
18 ~~records of any custodian banks through which an insurer holds~~  
19 ~~securities in~~ a clearing corporation, shall at all times show  
20 that such securities are held for such insurer and for which  
21 accounts thereof. Ownership of, and other interests in, such  
22 securities may be transferred by bookkeeping entry on the  
23 books of such clearing corporation ~~or in the Federal Reserve~~  
24 ~~book entry system~~ without, ~~in either case,~~ physical delivery  
25 of certificates representing such securities.

26           (4) The commission may adopt rules governing the  
27 deposit by insurers of securities with clearing corporations  
28 ~~and in the Federal Reserve book entry system.~~

29           Section 4. Subsections (5) and (6) are added to  
30 section 943.135, Florida Statutes, to read:

31           943.135 Requirements for continued employment.--

1           (5) An employing agency as defined in s. 943.10(4) may  
2 require a law enforcement officer and correctional officer as  
3 defined in s. 943.10 (1), (2), or (3) to successfully pass a  
4 physical examination in order to be eligible for the  
5 presumption set forth in s. 112.18. The employing agency shall  
6 have the physical examination performed prior to or  
7 immediately upon employment of the officer. Alternatively, an  
8 employing agency may elect to accept the results of a physical  
9 examination that has been previously performed by another  
10 employing agency prior to the officer's current employment.  
11 This provision shall not affect the applicability of the  
12 presumption set forth in s. 112.18 for law enforcement  
13 officers or correctional officers who are currently employed  
14 by an employing agency.

15           (6) An employing agency as defined in s. 943.10(4) may  
16 set tobacco-use standards for law enforcement officers and  
17 correctional officers as defined in s. 943.10 (1), (2), or (3)  
18 employed by a municipality, county, political subdivision of  
19 the state, or any agent of the political subdivision who has  
20 constitutional authority or statutory authority to employ or  
21 appoint an officer.

22           Section 5. This act shall take effect October 1, 2005.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1480

- o Authorizes the Office of Insurance Regulation to issue an order designating the classes of insurance that are eligible for export to surplus lines companies.
- o Permits a representative of an insured, who obtains independently procured coverage from a surplus lines insurer, to file the required report of the policy with the Surplus Lines Service Office and the applicable taxes and service fees.
- o Revises provisions relating to security deposits by domestic insurers to conform Florida law to the model law and rules enacted by the National Association of Insurance Commissioners.
- o Provides that the state or local governments may require a law enforcement officer and correctional officer to pass a physical exam in order to be eligible for the statutory presumption that when a law enforcement officer or correctional officer has a medical condition caused by tuberculosis, heart disease, or hypertension, it is presumed that the medical condition was suffered in the line of duty, unless shown to the contrary by competent evidence. This legislation would not apply to officers who are currently employed.
- o Provides that the state, county, or municipality may set tobacco use standards for law enforcement officers and correctional officers.