



1 (b) Surplus lines insurance when written pursuant to  
2 the Surplus Lines Law, ss. 626.913-626.937.

3 (c) Transactions as to which a certificate of  
4 authority is not required of an insurer, as stated in s.  
5 624.402.

6 (d) Independently procured coverage written pursuant  
7 to s. 626.938 which is not solicited, marketed, negotiated, or  
8 sold in this state.

9 (5) The office or department may, pursuant to s.  
10 120.569 and in its discretion and without advance notice or  
11 hearing, issue an immediate final order to cease and desist to  
12 any person or entity that violates this section. The  
13 Legislature finds that a violation of this section constitutes  
14 an imminent and immediate threat to the health, safety, and  
15 welfare of the residents of this state.

16 (6) The office may investigate the accounts, records,  
17 documents, and transactions pertaining to the activities of  
18 any unauthorized insurer or person, as defined in s. 624.04,  
19 which is or may be aiding or representing an unauthorized  
20 insurer.

21 Section 2. Subsection (3) is added to section 626.902,  
22 Florida Statutes, to read:

23 626.902 Penalty for representing unauthorized  
24 insurer.--

25 (3) This section does not apply to matters authorized  
26 by the office under the Unauthorized Insurers Process Law, ss.  
27 626.904-626.912.

28 Section 3. Subsections (1) and (3) of section 626.908,  
29 Florida Statutes, are amended to read:

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1           626.908 Defense of action by unauthorized insurer or  
2 person representing or aiding such insurer; damages and  
3 attorney fee.--

4           (1) Before an unauthorized insurer or person  
5 representing or aiding such insurer files or causes to be  
6 filed any pleading in any action or proceeding instituted  
7 against it under s. ~~ss.~~ 626.906, s. ~~and~~ 626.907, or s. 626.909  
8 or a suit instituted by the office or the department enforcing  
9 agency action against unauthorized insurers under s. 120.69,  
10 an unauthorized insurer or person representing or aiding such  
11 insurer shall:

12           (a) Procure a certificate of authority to transact  
13 insurance in this state, or

14           (b) Deposit with the clerk of the court in which such  
15 action or proceeding is pending cash or securities or file  
16 with such clerk a bond with good and sufficient sureties, to  
17 be approved by the court, in an amount to be fixed by the  
18 court sufficient to secure the payment of any final judgment  
19 which may be rendered in such action. The court may in its  
20 discretion make an order dispensing with such deposit or bond  
21 where the insurer makes a showing satisfactory to the court  
22 that it maintains in a state of the United States funds or  
23 securities, in trust or otherwise, sufficient and available to  
24 satisfy any final judgment which may be entered in such action  
25 or proceeding, and that the insurer or person representing or  
26 aiding such insurer will pay any final judgment entered  
27 therein without requiring suit to be brought on such judgment  
28 in the state where such funds or securities are located, and  
29 that if, nevertheless, such suit is brought on such final  
30 judgment the insurer or person representing or aiding such  
31 insurer shall waive all defenses thereto.

1 (c) Any proof, evidence, or testimony in support of  
2 such motion shall be taken in the jurisdiction of the court in  
3 which the action or proceeding is pending.

4 (d) If the unauthorized insurer or person representing  
5 or aiding such insurer seeks to take discovery or de bene esse  
6 depositions of witnesses beyond the jurisdiction of the court  
7 in which the action is pending, upon seasonable application by  
8 the plaintiff, the court by appropriate order shall require  
9 the unauthorized insurer or person representing or aiding such  
10 insurer, before such depositions are taken, to make similar  
11 deposit as described in paragraph (b), in sufficient amount to  
12 pay the reasonable expenses of the plaintiff and his or her  
13 attorney in attending the taking of such depositions,  
14 including reasonable attorney's fees to be fixed by the court.

15 (3) Nothing in subsection (1) is to be construed to  
16 prevent an unauthorized insurer or person representing or  
17 aiding such insurer from filing, within 30 days after service,  
18 a motion to quash or to set aside the service of any process  
19 made in the manner provided in s. 626.907 hereof on the ground  
20 either:

21 (a) That such unauthorized insurer or person  
22 representing or aiding such insurer has not done any of the  
23 acts enumerated in s. 626.906; or

24 (b) That the person on whom service was made pursuant  
25 to s. 626.907(2) was not doing any of the acts therein  
26 enumerated.

27 Section 4. This act shall take effect July 1, 2005.  
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SENATE SUMMARY

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3 Provides that the exemption, for independently procured  
4 coverage, from the prohibition against representing or  
5 aiding unauthorized insurers applies only when that  
6 coverage is not solicited, marketed, negotiated, or sold  
7 in the state. Authorizes immediate cease-and-desist  
8 orders for violations of that prohibition and  
9 investigations of unauthorized insurers and persons  
10 aiding or representing them. Declares legislative  
11 findings to the effect that unlawfully aiding or  
12 representing such insurers is an imminent threat to the  
13 public health, welfare, and safety. Provides that the  
14 penalty for unlawfully aiding or representing  
15 unauthorized insurers does not apply with respect to  
16 actions that are permitted. Requires an unauthorized  
17 insurer or person aiding or representing one to take  
18 certain actions before filing any pleading in an action  
19 against the unauthorized insurer.  
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