

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Banking and Insurance Committee

BILL: CS/SB 1742

INTRODUCER: Banking and Insurance Committee and Senator Fasano

SUBJECT: Surplus Lines Coverage

DATE: April 17, 2007

REVISED: \_\_\_\_\_

|    | ANALYST        | STAFF DIRECTOR     | REFERENCE | ACTION        |
|----|----------------|--------------------|-----------|---------------|
| 1. | <u>Knudson</u> | <u>Deffenbaugh</u> | <u>BI</u> | <u>Fav/CS</u> |
| 2. | _____          | _____              | _____     | _____         |
| 3. | _____          | _____              | _____     | _____         |
| 4. | _____          | _____              | _____     | _____         |
| 5. | _____          | _____              | _____     | _____         |
| 6. | _____          | _____              | _____     | _____         |

**I. Summary:**

This bill requires a surplus lines agent that sells surplus lines homeowners insurance to provide a premium rate quote from Citizens Property Insurance Corporation to all customers who are eligible for coverage through Citizens before selling a surplus lines policy. Additionally, a residential property insurance risk is not eligible for export to the surplus lines market unless the retail or producing agent advises the insured in writing that coverage may be available and less expensive from Citizens. The notice may also include other information, and if it does, such information must include disclosures that Citizens' assessments are higher and the coverage provided by Citizens may be different than the property's existing coverage. If the notice is signed by the insured, it is presumed that the insured has been informed. The bill is effective upon becoming a law.

The bill amends the following section of the Florida Statutes: 626.916

This bill creates the following section of the Florida Statutes: 626.9232

**II. Present Situation:**

**Surplus Lines Insurance Coverage**

Insurance companies that transact insurance in Florida or that have offices located in the state are required to obtain a certificate of authority (COA) issued by the Office of Insurance Regulation pursuant to s. 624.401, F.S. Generally, an insurer that does not have a certificate of authority to transact insurance business in Florida and does so, is considered an unauthorized insurer and has committed insurance fraud. However, exceptions exist to the COA requirement, the primary one being for surplus lines insurers.

Surplus lines insurance is insurance coverage provided by a company that is not licensed in Florida, but is allowed to transact insurance in the state as an “eligible” insurer. The purpose of the surplus lines law is to provide the insurance purchasing public with access to insurers that are not authorized to transact business in Florida when certain insurance coverages cannot be obtained from Florida-authorized insurers.<sup>1</sup> Insurance may only be purchased from a surplus lines carrier if the necessary amount of coverage cannot be procured after a diligent effort to buy the coverage from authorized insurers. Rates charged by a surplus lines carrier may not be more favorable than in use and offered by the majority of authorized insurers writing similar coverages on similar risks in Florida.<sup>2</sup>

### **Florida Surplus Lines Agents**

Surplus lines agents are authorized to handle the placement of insurance coverages with surplus lines insurers, and to place coverages with authorized insurers with whom the agent is not licensed.<sup>3</sup> Licensed resident general lines agents who meet the statutory criteria for licensure are eligible for licensure as a surplus lines agent.<sup>4</sup> In order to place a business with a surplus lines carrier, the agent must make a “diligent effort” to place the policy with a Florida-authorized insurer, which is shown by having three written rejections of coverage from insurers currently writing the type of insurance being sought.<sup>5</sup>

Surplus lines agents are required to report and file with the Florida Surplus Lines Service Office specified information on each surplus lines insurance policy and to submit a quarterly report to the service office.<sup>6</sup> When requested by the Department of Financial Services or the service office, surplus lines agents are also required to submit a copy of any policy and certain other information.<sup>7</sup> Surplus lines agents are required to maintain in their agency office for a period of 5 years each surplus lines contract, including applications and all certificates, and other detailed information about each surplus lines policy.<sup>8</sup>

### **Eligibility for Coverage in Citizens**

Chapter 2007-1, L.O.F. (HB 1-A from the 2007 Special Session) placed Citizens in more direct competition with the voluntary market by substantially revising the current law that makes a property ineligible for coverage from Citizens if an offer of coverage is made by an authorized insurer at its approved rates. As revised, if a *new applicant* to Citizens is offered coverage from an insurer at its approved rate, the property is not eligible for a Citizens’ policy, unless the insurer’s premium is more than 25 percent greater than the premium for comparable coverage from Citizens. However, a *policyholder* of Citizens remains eligible for coverage regardless of any offer of coverage from a private market insurer. This will allow a policyholder to choose to stay in Citizens and to reject any “take-out” offers from the voluntary market. But, the voluntary market may continue to “keep out” policies from Citizens, provided the premium is no more than

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<sup>1</sup> Section 626.913(2), F.S.

<sup>2</sup> Section 626.916(1)(b), F.S.

<sup>3</sup> Section 626.914(1), F.S.

<sup>4</sup> Section 626.927, F.S. Generally, to be licensed as a surplus lines agent, an individual must be: (1) deemed by the DFS to have sufficient experience in the insurance business (2) have 1 year’s experience working for a licensed surplus lines agent or have completed 60 class hours in an approved surplus lines course, and (3) pass a written examination.

<sup>5</sup> Section 626.914(4), F.S.

<sup>6</sup> Sections 626.921(2) and 626.931, F.S.

<sup>7</sup> Section 626.923, F.S.

<sup>8</sup> Section 626.930, F.S.

25 percent greater than Citizens' premium. As a result of this change and the rating law provisions related to Citizens contained in HB 1-A, Citizens is now in a more competitive role with the private market, with increasing numbers of policyholders potentially eligible for coverage with Citizens. These changes make it likely to increase its policy growth at an even greater pace, at least for the near future.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 626.916, F.S., to specify that insurance coverage for personal residential property is not eligible for export to the surplus lines market unless the retail or producing agent advises the insured in writing that coverage may be available and less expensive from Citizens Property Insurance Corporation. The notice may also include other information, and if it does, such information must include disclosures that Citizens' assessments are higher and the coverage provided by Citizens may be different than the property's existing coverage. If the notice is signed by the insured, it is presumed that the insured has been informed.

**Section 2.** Creates s. 626.9232, F.S., to require surplus lines agents who sell surplus lines homeowners' insurance to provide all customers eligible for coverage through Citizens Property Insurance Corporation a premium rate quote from Citizens before selling a homeowners' surplus lines policy.

**Section 3.** The act is effective upon becoming a law.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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