



286142

LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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04/24/2009 03:33 PM

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Senator Ring moved the following:

Senate Amendment (with title amendment)

Between lines 155 and 156

insert:

Section 7. Section 626.9375, Florida Statutes, is created
to read:

626.9375 Claims administration.-

(1) Without limitation of any right or defense of a surplus
lines insurer, the following acts by or on behalf of a surplus
lines insurer shall not be deemed to constitute a waiver of any
provision of a policy or of any defense of the insurer issuing
the policy:



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13 (a) Acknowledging the receipt of notice of loss or claim
14 under the policy.

15 (b) Furnishing forms for reporting a loss or claim, giving
16 information relative thereto, making proof of loss, or receiving
17 or acknowledging receipt of any such forms or proof, completed
18 or uncompleted.

19 (c) Investigating any loss or claim under any policy or
20 engaging in negotiations regarding a possible settlement of any
21 such loss or claim.

22 (2) A surplus lines liability insurer may not deny coverage
23 based on a particular coverage defense unless:

24 (a) Within 30 days after the liability insurer knew or
25 should have known of the coverage defense, written notice of
26 reservation of rights to assert a coverage defense is given to
27 the named insured by registered or certified mail sent to the
28 last known address of the insured or by hand delivery; and

29 (b) Within 60 days after compliance with paragraph (a) or
30 receipt of a summons and complaint naming the insured as a
31 defendant, whichever is later, but in no case later than 30 days
32 before trial commences, the insurer:

33 1. Gives written notice to the named insured by registered
34 or certified mail of its refusal to defend the insured;

35 2. Obtains from the insured a nonwaiver agreement following
36 full disclosure of the specific facts and policy provisions upon
37 which the coverage defense is asserted and the duties,
38 obligations, and liabilities of the insurer during and following
39 the pendency of the subject litigation; or

40 3. Retains independent counsel that is mutually agreeable
41 to the parties. Reasonable fees for the counsel may be agreed



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42 upon between the parties or, if no agreement is reached, shall
43 be set by the court.

44
45 ===== T I T L E A M E N D M E N T =====

46 And the title is amended as follows:

47 Delete line 34

48 and insert:

49 statement printed on the face of the policy; creating
50 s. 626.9375, F.S.; specifying certain acts that do not
51 constitute a waiver of any provision of a policy or of
52 any defense of the insurer; providing circumstances
53 under which a surplus lines liability insurer may deny
54 coverage based on a particular coverage defense;
55 providing