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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/20/2009	.	
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The Committee on Finance and Tax (Justice) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 47 and 48  
insert:

Section 2. Effective July 1, 2009, subsection (4) of  
section 626.914, Florida Statutes, is amended to read:

626.914 Definitions.—As used in this Surplus Lines Law, the  
term:

(4) "Diligent effort" means seeking coverage from and  
having been rejected by at least three authorized insurers  
currently writing this type of coverage and documenting these



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12 rejections by filing a statement verified under oath that the  
13 conditions regarding rejections by authorized insurers stated in  
14 this part have been met. Such verified statements shall be  
15 attached to and made a part of all surplus lines policies.

16 However, if the residential structure has a dwelling replacement  
17 cost of \$1 million or more, the term means seeking coverage from  
18 and having been rejected by at least one authorized insurer  
19 currently writing this type of coverage and documenting this  
20 rejection.

21 Section 3. Effective July 1, 2009, paragraph (a) of  
22 subsection (1) of section 626.916, Florida Statutes, is amended  
23 to read:

24 626.916 Eligibility for export.—

25 (1) No insurance coverage shall be eligible for export  
26 unless it meets all of the following conditions:

27 (a) The full amount of insurance required must not be  
28 procurable, after a diligent effort has been made by the  
29 producing agent to do so, from among the insurers authorized to  
30 transact and actually writing that kind and class of insurance  
31 in this state, and the amount of insurance exported shall be  
32 only the excess over the amount so procurable from authorized  
33 insurers. Surplus lines agents must verify, in compliance with  
34 s. 626.914(4), that a diligent effort has been made by requiring  
35 a properly documented statement of diligent effort from the  
36 retail or producing agent. However, to be in compliance with the  
37 diligent effort requirement, the surplus lines agent's reliance  
38 must be reasonable under the particular circumstances  
39 surrounding the export of that particular risk. Reasonableness  
40 shall be assessed by taking into account factors which include,



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41 but are not limited to, a regularly conducted program of  
42 verification of the information provided by the retail or  
43 producing agent. Declinations must be documented on a risk-by-  
44 risk basis. If it is not possible to obtain the full amount of  
45 insurance required by layering the risk, it is permissible to  
46 export the full amount.

47  
48 ===== T I T L E A M E N D M E N T =====

49 And the title is amended as follows:

50 Delete lines 6 - 37

51 and insert:

52 exception; amending s. 626.914, F.S.; clarifying the  
53 definition of the term "diligent effort" to require  
54 the documentation of rejections for coverage by  
55 specified means; amending s. 626.916, F.S.; requiring  
56 that surplus lines agents verify certain information  
57 in compliance with specified provisions of state law;  
58 amending s. 626.924, F.S.; requiring that surplus  
59 lines policies issued on or after a specified date  
60 have a specified statement printed on the face of the  
61 policy; creating s. 626.9371, F.S.; providing methods  
62 of payment for premiums and claims regarding surplus  
63 lines contracts issued on or after a specified date;  
64 requiring a written authorization to complete payment  
65 under certain circumstances; providing for waiver of  
66 such requirement; providing that an insurer remains  
67 liable for payment of a claim if corresponding funds  
68 are misdirected; creating s. 626.9372, F.S.; requiring  
69 that certain insurers provide a disclosure statement



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70 to a claimant under certain circumstances; requiring  
71 that such statement include certain information;  
72 requiring that an insurer disclose certain additional  
73 information upon the request of a claimant; requiring  
74 the amendment of such statement under certain  
75 circumstances; creating s. 626.9373, F.S.; providing  
76 for the payment of attorney's fees in cases involving  
77 surplus lines insurers at the trial and appellate  
78 levels; amending s. 626.9374, F.S.; requiring that a  
79 surplus lines policy containing a separate hurricane  
80 or wind deductible issued on or after a specified date  
81 have a specified statement printed on the face of the  
82 policy; requiring that a surplus lines policy  
83 containing a coinsurance provision applicable to  
84 hurricane or wind losses issued on or after a  
85 specified date have a specified statement printed on  
86 the face of the policy; providing for severability;  
87 providing for the retroactive applicability of certain  
88 provisions; providing effective dates.