



353280

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: 1/F/2R

.

04/24/2009 03:42 PM

.

.

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 do not constitute a waiver of any provision of a
policy or of any defense of the insurer thereunder:

(a) Acknowledgment of the receipt of notice of loss or



353280

13 claim under the policy.

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

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

21 (2) For surplus lines policies issued or renewed on or
22 after October 1, 2009, a surplus lines liability insurer may not
23 deny coverage based on a particular coverage defense unless:

24 (a) Within 90 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 90 days after compliance with paragraph (a) or
30 receipt of a summons and complaint naming the insured as a
31 defendant, whichever occurs later, but not later than 30 days
32 before trial, 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 subject litigation; or

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



353280

42 between the parties or, if no agreement is reached, shall be set
43 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 35

48 and insert:

49 the face of the policy; creating s. 626.9375, F.S.;

50 providing that certain acts by or on behalf of a

51 surplus lines insurer do not constitute a waiver of

52 any provision of a policy or of any defense of the

53 insurer thereunder; providing circumstances under

54 which a surplus lines insurer may deny coverage for

55 certain policies based on a particular coverage

56 defense; providing for severability;