



880392

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2009	.	
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The Committee on Judiciary (Fasano) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (4) is added to section 626.913,
Florida Statutes, to read:

626.913 Surplus Lines Law; short title; purposes.—

(4) Except as may be specifically stated to apply to
surplus lines insurers, the provisions of chapter 627 do not
apply to surplus lines insurance authorized under ss. 626.913-
626.937, the Surplus Lines Law.

Section 2. Section 626.924, Florida Statutes, is amended to



880392

13 read:

14 626.924 Information required on contract.—Each surplus
15 lines agent through whom a surplus lines coverage is procured
16 shall write or print on the outside of the policy and on any
17 certificate, cover note, or other confirmation of the insurance
18 his or her name, address, and identification number and the name
19 and address of the producing agent through whom the business
20 originated and shall have stamped or written upon the first page
21 of the policy or the certificate, cover note, or confirmation of
22 insurance the words: THIS INSURANCE IS ISSUED PURSUANT TO THE
23 FLORIDA SURPLUS LINES LAW. PERSONS INSURED BY SURPLUS LINES
24 CARRIERS DO NOT HAVE THE PROTECTION OF THE FLORIDA INSURANCE
25 GUARANTY ACT TO THE EXTENT OF ANY RIGHT OF RECOVERY FOR THE
26 OBLIGATION OF AN INSOLVENT UNLICENSED INSURER. Surplus lines
27 policies issued on or after October 1, 2009, shall have stamped
28 or printed on the face of the policy in at least 14-point,
29 boldface type, the following statement: SURPLUS LINES INSURERS’
30 POLICY RATES AND FORMS ARE NOT APPROVED BY ANY FLORIDA
31 REGULATORY AGENCY.

32 Section 3. Section 626.9371, Florida Statutes, is created
33 to read:

34 626.9371 Payment of premiums and claims.—

35 (1) The premiums for surplus lines insurance contracts
36 issued on or after October 1, 2009, in this state or covering
37 risks located in this state shall be paid in cash consisting of
38 coins, currency, checks, or money orders or by using a debit
39 card, credit card, automatic electronic funds transfer, or
40 payroll deduction plan.

41 (2) All payments of claims made in this state under any



880392

42 contract of surplus lines insurance issued on or after October
43 1, 2009, shall be made:

44 (a) In cash consisting of coins, currency, checks, drafts,
45 or money orders and, if made by check or draft, shall be in such
46 form as will comply with the standards for cash items adopted by
47 the Federal Reserve System to facilitate the sorting, routing,
48 and mechanized processing of such items; or

49 (b) By debit card or any other form of electronic transfer
50 if authorized in writing by the recipient or the recipient's
51 representative. Any fees or costs to be charged against the
52 recipient must be disclosed in writing to the recipient or the
53 recipient's representative at the time of written authorization.
54 However, the written authorization requirement may be waived by
55 the recipient or the recipient's representative if the insurer
56 verifies the identity of the insured or the insured's recipient
57 and does not charge a fee for the transaction. If the funds are
58 misdirected, the insurer remains liable for the payment of the
59 claim.

60 Section 4. Section 626.9372, Florida Statutes, is created
61 to read:

62 626.9372 Disclosure statement of certain information
63 required-liability claims.-

64 (1) Each insurer that provides or may provide liability
65 insurance coverage to pay all or a portion of any claim that
66 might be made under surplus lines policies issued on or after
67 October 1, 2009, shall provide, within 30 days after the written
68 request of the claimant, a statement of a corporate officer or
69 the insurer's claims manager or superintendent setting forth the
70 following information with regard to each known policy of



880392

71 insurance, including excess or umbrella insurance:

72 (a) The name of the insurer.

73 (b) The name of each insured.

74 (c) The limits of the liability coverage.

75 (d) A statement of any policy or coverage defense that such
76 insurer reasonably believes is available to such insurer at the
77 time of filing such statement.

78 (e) A copy of the policy.

79

80 In addition, the insured, or her or his insurance agent, upon
81 written request of the claimant or the claimant's attorney,
82 shall disclose the name and coverage of each known insurer to
83 the claimant and forward such request for information as
84 required by this subsection to all affected insurers. The
85 insurer shall supply the information required in this subsection
86 to the claimant within 30 days after receipt of such request.

87 (2) The statement required by subsection (1) must be
88 amended within 30 days after the date of discovery of facts
89 necessitating an amendment to such statement.

90 Section 5. Section 626.9373, Florida Statutes, is created
91 to read:

92 626.9373 Attorney's fees.—

93 (1) Upon the rendition of a judgment or decree by any of
94 court of this state against a surplus lines insurer in favor of
95 any named or omnibus insured or the named beneficiary under a
96 policy or contract executed by the insurer on or after October
97 1, 2009, the trial court or, if the insured or beneficiary
98 prevails on appeal, the appellate court, shall adjudge or decree
99 against the insurer in favor of the insured or beneficiary a



880392

100 reasonable sum as fees or compensation for the insured's or
101 beneficiary's attorney prosecuting the lawsuit for which
102 recovery is awarded.

103 (2) If awarded, attorney's fees or compensation shall be
104 included in the judgment or decree rendered in the case.

105 Section 6. Section 626.9374, Florida Statutes, is created
106 to read:

107 626.9374 Liability of insureds; deductible and
108 coinsurance.—

109 (1) Any surplus lines, personal lines residential property
110 insurance policy issued on or after October 1, 2009, containing
111 a separate hurricane or wind deductible must on its face include
112 in at least 14-point, boldface type the following statement:
113 THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE OR WIND
114 LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU.

115 (2) A surplus lines, personal lines residential property
116 insurance policy issued on or after October 1, 2009, containing
117 a coinsurance provision applicable to hurricane or wind losses
118 must on its face include in at least 14-point, boldface type the
119 following statement: THIS POLICY CONTAINS A CO-PAY PROVISION
120 THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU.

121 Section 7. If any provision of this act or the application
122 thereof to any person or circumstance is held invalid, the
123 invalidity shall not affect other provisions or applications of
124 the act which can be given effect without the invalid provision
125 or application, and to this end the provisions of this act are
126 severable.

127 Section 8. This act shall take effect upon becoming a law,
128 and section 1 of this act shall operate retroactively to October



880392

129 1, 1988.

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131 ===== T I T L E A M E N D M E N T =====

132 And the title is amended as follows:

133 Delete everything before the enacting clause
134 and insert:

135 An act to be entitled
136 An act relating to insurance; amending s. 626.913,
137 F.S.; providing for the nonapplication of certain
138 provisions of state law to surplus lines insurance
139 authorized under the Surplus Lines Law; providing an
140 exception; amending s. 626.924, F.S.; requiring that
141 surplus lines policies issued on or after a specified
142 date have a specified statement printed on the face of
143 the policy; creating s. 626.9371, F.S.; providing
144 methods of payment for premiums and claims regarding
145 surplus lines contracts issued on or after a specified
146 date; requiring a written authorization to complete
147 payment under certain circumstances; providing for
148 waiver of such requirement; providing that an insurer
149 remains liable for payment of a claim if corresponding
150 funds are misdirected; creating s. 626.9372, F.S.;
151 requiring that certain insurers provide a disclosure
152 statement to a claimant under certain circumstances;
153 requiring that such statement include certain
154 information; requiring that an insurer disclose
155 certain additional information upon the request of a
156 claimant; requiring the amendment of such statement
157 under certain circumstances; creating s. 626.9373,



880392

158 F.S.; providing for the payment of attorney's fees in
159 cases involving surplus lines insurers at the trial
160 and appellate levels; amending s. 626.9374, F.S.;
161 requiring that a surplus lines policy containing a
162 separate hurricane or wind deductible issued on or
163 after a specified date have a specified statement
164 printed on the face of the policy; requiring that a
165 surplus lines policy containing a coinsurance
166 provisions applicable to hurricane or wind losses
167 issued on or after a specified date have a specified
168 statement printed on the face of the policy; providing
169 for severability; providing for the retroactive
170 applicability of certain provisions; providing an
171 effective date.