

By the Committee on Judiciary; and Senator Bennett

590-04066A-09

20091894c1

1 A bill to be entitled
2 An act relating to insurance; amending s. 626.913,
3 F.S.; providing for the nonapplication of certain
4 provisions of state law to surplus lines insurance
5 authorized under the Surplus Lines Law; providing an
6 exception; amending s. 626.924, F.S.; requiring that
7 surplus lines policies issued on or after a specified
8 date have a specified statement printed on the face of
9 the policy; creating s. 626.9371, F.S.; providing
10 methods of payment for premiums and claims regarding
11 surplus lines contracts issued on or after a specified
12 date; requiring a written authorization to complete
13 payment under certain circumstances; providing for
14 waiver of such requirement; providing that an insurer
15 remains liable for payment of a claim if corresponding
16 funds are misdirected; creating s. 626.9372, F.S.;
17 requiring that certain insurers provide a disclosure
18 statement to a claimant under certain circumstances;
19 requiring that such statement include certain
20 information; requiring that an insurer disclose
21 certain additional information upon the request of a
22 claimant; requiring the amendment of such statement
23 under certain circumstances; creating s. 626.9373,
24 F.S.; providing for the payment of attorney's fees in
25 cases involving surplus lines insurers at the trial
26 and appellate levels; amending s. 626.9374, F.S.;
27 requiring that a surplus lines policy containing a
28 separate hurricane or wind deductible issued on or
29 after a specified date have a specified statement

590-04066A-09

20091894c1

30 printed on the face of the policy; requiring that a
31 surplus lines policy containing a coinsurance
32 provision applicable to hurricane or wind losses
33 issued on or after a specified date have a specified
34 statement printed on the face of the policy; providing
35 for severability; providing for the retroactive
36 applicability of certain provisions; providing an
37 effective date.

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39 Be It Enacted by the Legislature of the State of Florida:

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

43 626.913 Surplus Lines Law; short title; purposes.—

44 (4) Except as may be specifically stated to apply to
45 surplus lines insurers, the provisions of chapter 627 do not
46 apply to surplus lines insurance authorized under ss. 626.913-
47 626.937, the Surplus Lines Law.

48 Section 2. Section 626.924, Florida Statutes, is amended to
49 read:

50 626.924 Information required on contract.—Each surplus
51 lines agent through whom a surplus lines coverage is procured
52 shall write or print on the outside of the policy and on any
53 certificate, cover note, or other confirmation of the insurance
54 his or her name, address, and identification number and the name
55 and address of the producing agent through whom the business
56 originated and shall have stamped or written upon the first page
57 of the policy or the certificate, cover note, or confirmation of
58 insurance the words: THIS INSURANCE IS ISSUED PURSUANT TO THE

590-04066A-09

20091894c1

59 FLORIDA SURPLUS LINES LAW. PERSONS INSURED BY SURPLUS LINES
60 CARRIERS DO NOT HAVE THE PROTECTION OF THE FLORIDA INSURANCE
61 GUARANTY ACT TO THE EXTENT OF ANY RIGHT OF RECOVERY FOR THE
62 OBLIGATION OF AN INSOLVENT UNLICENSED INSURER. Surplus lines
63 policies issued on or after October 1, 2009, shall have stamped
64 or printed on the face of the policy in at least 14-point,
65 boldface type, the following statement: SURPLUS LINES INSURERS'
66 POLICY RATES AND FORMS ARE NOT APPROVED BY ANY FLORIDA
67 REGULATORY AGENCY.

68 Section 3. Section 626.9371, Florida Statutes, is created
69 to read:

70 626.9371 Payment of premiums and claims.—

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

77 (2) All payments of claims made in this state under any
78 contract of surplus lines insurance issued on or after October
79 1, 2009, shall be made:

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

85 (b) By debit card or any other form of electronic transfer
86 if authorized in writing by the recipient or the recipient's
87 representative. Any fees or costs to be charged against the

590-04066A-09

20091894c1

88 recipient must be disclosed in writing to the recipient or the
89 recipient's representative at the time of written authorization.
90 However, the written authorization requirement may be waived by
91 the recipient or the recipient's representative if the insurer
92 verifies the identity of the insured or the insured's recipient
93 and does not charge a fee for the transaction. If the funds are
94 misdirected, the insurer remains liable for the payment of the
95 claim.

96 Section 4. Section 626.9372, Florida Statutes, is created
97 to read:

98 626.9372 Disclosure statement of certain information
99 required-liability claims.-

100 (1) Each insurer that provides or may provide liability
101 insurance coverage to pay all or a portion of any claim that
102 might be made under surplus lines policies issued on or after
103 October 1, 2009, shall provide, within 30 days after the written
104 request of the claimant, a statement of a corporate officer or
105 the insurer's claims manager or superintendent setting forth the
106 following information with regard to each known policy of
107 insurance, including excess or umbrella insurance:

108 (a) The name of the insurer.

109 (b) The name of each insured.

110 (c) The limits of the liability coverage.

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

114 (e) A copy of the policy.

115

116 In addition, the insured, or her or his insurance agent, upon

590-04066A-09

20091894c1

117 written request of the claimant or the claimant's attorney,
118 shall disclose the name and coverage of each known insurer to
119 the claimant and forward such request for information as
120 required by this subsection to all affected insurers. The
121 insurer shall supply the information required in this subsection
122 to the claimant within 30 days after receipt of such request.

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

126 Section 5. Section 626.9373, Florida Statutes, is created
127 to read:

128 626.9373 Attorney's fees.—

129 (1) Upon the rendition of a judgment or decree by any court
130 of this state against a surplus lines insurer in favor of any
131 named or omnibus insured or the named beneficiary under a policy
132 or contract executed by the insurer on or after October 1, 2009,
133 the trial court or, if the insured or beneficiary prevails on
134 appeal, the appellate court, shall adjudge or decree against the
135 insurer in favor of the insured or beneficiary a reasonable sum
136 as fees or compensation for the insured's or beneficiary's
137 attorney prosecuting the lawsuit for which recovery is awarded.

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

140 Section 6. Section 626.9374, Florida Statutes, is created
141 to read:

142 626.9374 Liability of insureds; deductible and
143 coinsurance.—

144 (1) Any surplus lines, personal lines residential property
145 insurance policy issued on or after October 1, 2009, containing

590-04066A-09

20091894c1

146 a separate hurricane or wind deductible must on its face include
147 in at least 14-point, boldface type the following statement:

148 THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE OR WIND
149 LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU.

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

156 Section 7. If any provision of this act or the application
157 thereof to any person or circumstance is held invalid, the
158 invalidity shall not affect other provisions or applications of
159 the act which can be given effect without the invalid provision
160 or application, and to this end the provisions of this act are
161 severable.

162 Section 8. This act shall take effect upon becoming a law,
163 and section 1 of this act shall operate retroactively to October
164 1, 1988.