

20091894e1

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

20091894e1

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

38  
39 Be It Enacted by the Legislature of the State of Florida:

40  
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

20091894e1

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

20091894e1

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

20091894e1

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

20091894e1

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. The amendments to s. 626.913, Florida Statutes,  
157 in this act are remedial in nature and operate retroactively to  
158 the regulation of surplus lines insurers from October 1, 1998,  
159 except with respect to lawsuits that are pending on the  
160 effective date of this act.

161 Section 8. This act shall take effect upon becoming a law.