

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Patterson offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove lines 45-69 and insert:

5 Section 3. Section 626.9371, Florida Statutes, is created  
6 to read:

7 626.9371 Payment of premiums and claims.--

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

14 (2) All payments of claims made in this state under any  
15 contract of surplus lines insurance issued on or after October  
16 1, 2009, shall be made:

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

22 (b) By debit card or any other form of electronic transfer  
23 if authorized in writing by the recipient or the recipient's  
24 representative. Any fees or costs to be charged against the  
25 recipient must be disclosed in writing to the recipient or the  
26 recipient's representative at the time of written authorization.  
27 However, the written authorization requirement may be waived by  
28 the recipient or the recipient's representative if the insurer  
29 verifies the identity of the insured or the insured's recipient  
30 and does not charge a fee for the transaction. If the funds are  
31 misdirected, the insurer remains liable for the payment of the  
32 claim.

33 Section 4. Section 626.9372, Florida Statutes, is created  
34 to read:

35 626.9372 Disclosure statement of certain information  
36 required-liability claims.--

37 (1) Each insurer that provides or may provide liability  
38 insurance coverage to pay all or a portion of any claim that  
39 might be made under surplus lines policies issued on or after  
40 October 1, 2009, shall provide, within 60 days after the written  
41 request of the claimant, a statement of a corporate officer or  
42 the insurer's claims manager or superintendent setting forth the  
43 following information with regard to each known policy of  
44 insurance, including excess or umbrella insurance:

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45 (a) The name of the insurer.

46 (b) The name of each insured.

47 (c) The limits of the liability coverage.

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

51 (e) A copy of the policy.

52  
53 In addition, the insured, or her or his insurance agent, upon  
54 written request of the claimant or the claimant's attorney,  
55 shall disclose the name and coverage of each known insurer to  
56 the claimant and forward such request for information as  
57 required by this subsection to all affected insurers. The  
58 insurer shall supply the information required in this subsection  
59 to the claimant within 60 days after receipt of such request.

60 (2) The statement required by subsection (1) must be  
61 amended within 60 days after the date of discovery of facts  
62 necessitating an amendment to such statement.

63 Section 5. Section 626.9373, Florida Statutes, is created  
64 to read:

65 626.9373 Attorney's fees.--

66 (1) Upon the rendition of a judgment or decree by any  
67 court of this state against a surplus lines insurer in favor of  
68 any named or omnibus insured or the named beneficiary under a  
69 policy or contract executed by the insurer on or after the  
70 effective date of this act, the trial court or, if the insured  
71 or beneficiary prevails on appeal, the appellate court, shall  
72 adjudge or decree against the insurer in favor of the insured or

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73 beneficiary a reasonable sum as fees or compensation for the  
74 insured's or beneficiary's attorney prosecuting the lawsuit for  
75 which recovery is awarded.

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

78 Section 6. Section 626.9374, Florida Statutes, is created  
79 to read:

80 626.9374 Liability of insureds; deductible and  
81 coinsurance.--

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

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

94 Section 7. The amendments to s. 626.913, Florida Statutes,  
95 in this act are remedial in nature and operate retroactively to  
96 the regulation of surplus lines insurers from October 1, 1988,  
97 except with respect to lawsuits that are filed on or before May  
98 15, 2009.

99 Section 8. If any provision of this act or the application  
100 thereof to any person or circumstance is held invalid, the

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101 invalidity shall not affect other provisions or applications of  
102 the act which can be given effect without the invalid provision  
103 or application, and to this end the provisions of this act are  
104 declared severable.

105 Section 9. This act shall take effect upon becoming a law.  
106  
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108 -----  
109 **T I T L E A M E N D M E N T**

110 Remove lines 8-13 and insert:

111 creating s. 626.9371, F.S.; providing methods of payment for  
112 premiums and claims regarding surplus lines contracts issued on  
113 or after a specified date; requiring a written authorization to  
114 complete payment under certain circumstances; providing for  
115 waiver of such requirement; providing that an insurer remains  
116 liable for payment of a claim if corresponding funds are  
117 misdirected; creating s. 626.9372, F.S.; requiring that certain  
118 insurers provide a disclosure statement to a claimant under  
119 certain circumstances; requiring that such statement include  
120 certain information; requiring that an insurer disclose certain  
121 additional information upon the request of a claimant; requiring  
122 the amendment of such statement under certain circumstances;  
123 creating s. 626.9373, F.S.; providing for the payment of  
124 attorney's fees in cases involving surplus lines insurers at the  
125 trial and appellate levels; amending s. 626.9374, F.S.;  
126 requiring that a surplus lines policy containing a separate  
127 hurricane or wind deductible issued on or after a specified date  
128 have a specified statement printed on the face of the policy;

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129 requiring that a surplus lines policy containing a coinsurance  
130 provision applicable to hurricane or wind losses issued on or  
131 after a specified date have a specified statement printed on the  
132 face of the policy; providing for the retroactive applicability  
133 of certain provisions; providing severability; providing

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