

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

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

35  
 36 Be It Enacted by the Legislature of the State of Florida:

37  
 38 Section 1. Subsection (4) is added to section 626.913,  
 39 Florida Statutes, to read:

40 626.913 Surplus Lines Law; short title; purposes.--  
 41 (4) Except as may be specifically stated to apply to  
 42 surplus lines insurers, the provisions of chapter 627 do not  
 43 apply to surplus lines insurance authorized under ss. 626.913-  
 44 626.937, the Surplus Lines Law.

45 Section 2. Section 626.924, Florida Statutes, is amended  
 46 to read:

47 626.924 Information required on contract.--  
 48 (1) Each surplus lines agent through whom a surplus lines  
 49 coverage is procured shall write or print on the outside of the  
 50 policy and on any certificate, cover note, or other confirmation  
 51 of the insurance his or her name, address, and identification  
 52 number and the name and address of the producing agent through  
 53 whom the business originated and shall have stamped or written  
 54 upon the first page of the policy or the certificate, cover  
 55 note, or confirmation of insurance the words: THIS INSURANCE IS  
 56 ISSUED PURSUANT TO THE FLORIDA SURPLUS LINES LAW. PERSONS

57 INSURED BY SURPLUS LINES CARRIERS DO NOT HAVE THE PROTECTION OF  
 58 THE FLORIDA INSURANCE GUARANTY ACT TO THE EXTENT OF ANY RIGHT OF  
 59 RECOVERY FOR THE OBLIGATION OF AN INSOLVENT UNLICENSED INSURER.

60 (2) Surplus lines policies issued on or after October 1,  
 61 2009, shall have stamped or printed on the face of the policy in  
 62 at least 14-point, boldface type, the following statement:  
 63 SURPLUS LINES INSURERS' POLICY RATES AND FORMS ARE NOT APPROVED  
 64 BY ANY FLORIDA REGULATORY AGENCY.

65 Section 3. Section 626.9371, Florida Statutes, is created  
 66 to read:

67 626.9371 Payment of premiums and claims.--

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

74 (2) All payments of claims made in this state under any  
 75 contract of surplus lines insurance issued on or after October  
 76 1, 2009, shall be made:

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

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

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

93 Section 4. Section 626.9372, Florida Statutes, is created  
94 to read:

95 626.9372 Disclosure statement of certain information  
96 required-liability claims.--

97 (1) Each insurer that provides or may provide liability  
98 insurance coverage to pay all or a portion of any claim that  
99 might be made under surplus lines policies issued on or after  
100 October 1, 2009, shall provide, within 60 days after the written  
101 request of the claimant, a statement of a corporate officer or  
102 the insurer's claims manager or superintendent setting forth the  
103 following information with regard to each known policy of  
104 insurance, including excess or umbrella insurance:

105 (a) The name of the insurer.

106 (b) The name of each insured.

107 (c) The limits of the liability coverage.

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

111 (e) A copy of the policy.

112

113 In addition, the insured, or her or his insurance agent, upon  
 114 written request of the claimant or the claimant's attorney,  
 115 shall disclose the name and coverage of each known insurer to  
 116 the claimant and forward such request for information as  
 117 required by this subsection to all affected insurers. The  
 118 insurer shall supply the information required in this subsection  
 119 to the claimant within 60 days after receipt of such request.

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

123 Section 5. Section 626.9373, Florida Statutes, is created  
 124 to read:

125 626.9373 Attorney's fees.--

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

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

138 Section 6. Section 626.9374, Florida Statutes, is created  
 139 to read:

140 626.9374 Liability of insureds; deductible and

141 coinsurance.--

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

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

154 Section 7. The amendments to s. 626.913, Florida Statutes,  
 155 in this act are remedial in nature and operate retroactively to  
 156 the regulation of surplus lines insurers from October 1, 1988,  
 157 except with respect to lawsuits that are filed on or before May  
 158 15, 2009.

159 Section 8. If any provision of this act or the application  
 160 thereof to any person or circumstance is held invalid, the  
 161 invalidity shall not affect other provisions or applications of  
 162 the act which can be given effect without the invalid provision  
 163 or application, and to this end the provisions of this act are  
 164 declared severable.

165 Section 9. This act shall take effect upon becoming a law.