

1 A bill to be entitled
2 An act relating to surplus lines insurance; amending s.
3 626.931, F.S.; requiring a surplus lines agent to file
4 quarterly on or before a specified time an affidavit
5 stating that all surplus lines insurance transacted during
6 the preceding quarter has been submitted to the Florida
7 Surplus Lines Service Office; amending s. 626.932, F.S.;
8 requiring the premium tax due on a surplus lines policy to
9 be computed on the gross premium under certain
10 circumstances; amending s. 626.9325, F.S.; revising
11 payment dates for the service fee; requiring the service
12 fee on a surplus lines policy to be computed on the gross
13 premium under certain circumstances; creating s. 626.9362,
14 F.S.; authorizing the Department of Financial Services and
15 the Office of Insurance Regulation to enter into a
16 specified type of agreement with other states pursuant to
17 federal law for the collection and allocation of certain
18 nonadmitted insurance taxes; providing terms that may be
19 included in the agreement; requiring the Florida Surplus
20 Lines Service Office to implement an agreement entered
21 into by the department and the Office of Insurance
22 Regulation; authorizing the department to adopt rules;
23 providing for application; amending s. 626.938, F.S.;
24 requiring certain insureds or self-insurers engaging in
25 specified insurance transactions with a foreign or alien
26 insurer to compute the premium tax and service fees based
27 on the gross premium under certain circumstances;
28 requiring such insureds or self-insurers to pay the

29 applicable premium tax to the department and the service
 30 fee to the Florida Surplus Lines Service Office on or
 31 before a specified time; providing an effective date.

32
 33 WHEREAS, the 111th Congress passed the Nonadmitted and
 34 Reinsurance Reform Act of 2010 (NRRA), and

35 WHEREAS, the NRRA provides that no state other than the
 36 home state of an insured may require any premium tax payment for
 37 nonadmitted insurance and defines "home state" as the state in
 38 which an insured maintains its principal place of business [15
 39 U.S.C. s. 8206], and

40 WHEREAS, as a result of the NRRA, premium tax payments that
 41 would otherwise be paid to Florida will be paid to other states,
 42 and

43 WHEREAS, the NRRA allows states to enter into a compact or
 44 otherwise establish procedures to allocate among the states the
 45 premium taxes paid to an insured's home state, and

46 WHEREAS, the National Association of Insurance
 47 Commissioners has adopted an agreement for states to use for
 48 that purpose, and

49 WHEREAS, state agreements must be entered into before the
 50 expiration of a 330-day period that began on July 21, 2010, to
 51 prevent the payment of taxes to such other states pursuant to
 52 the NRRA [15 U.S.C. s. 8201], NOW, THEREFORE,

53
 54 Be It Enacted by the Legislature of the State of Florida:
 55

56 Section 1. Subsection (1) of section 626.931, Florida
 57 Statutes, is amended to read:

58 626.931 Agent affidavit and insurer reporting
 59 requirements.—

60 (1) Each surplus lines agent shall on or before the 45th
 61 day ~~the end of the month next~~ following each calendar quarter
 62 file with the Florida Surplus Lines Service Office an affidavit,
 63 on forms as prescribed and furnished by the Florida Surplus
 64 Lines Service Office, stating that all surplus lines insurance
 65 transacted by him or her during such calendar quarter has been
 66 submitted to the Florida Surplus Lines Service Office as
 67 required.

68 Section 2. Subsection (3) of section 626.932, Florida
 69 Statutes, is amended to read:

70 626.932 Surplus lines tax.—

71 (3) If a surplus lines policy covers risks or exposures
 72 only partially in this state and the state is the home state as
 73 defined in the federal Nonadmitted and Reinsurance Reform Act of
 74 2010 (NRRA), the tax payable shall be computed on the gross
 75 ~~portion of the premium which is properly allocable to the risks~~
 76 ~~or exposures located in this state.~~

77 Section 3. Subsections (2) and (3) of section 626.9325,
 78 Florida Statutes, are amended to read:

79 626.9325 Service fee.—

80 (2) (a) The surplus lines agent shall pay on or before the
 81 45th day following each calendar quarter ~~monthly~~ to the Florida
 82 Surplus Lines Service Office the fees related to all policies
 83 reported during the previous calendar quarter ~~month~~ in

84 accordance with the plan of operation of the Florida Surplus
 85 Lines Service Office.

86 (b) The agent shall pay interest on the amount of any
 87 delinquent fees due, at the rate of 9 percent per year,
 88 compounded annually, beginning the day the amount becomes
 89 delinquent.

90 (3) If a surplus lines policy covers risks or exposures
 91 only partially in this state and the state is the home state as
 92 defined in the federal Nonadmitted and Reinsurance Reform Act of
 93 2010 (NRRA), the fee payable shall be computed on the gross
 94 ~~portion of the premium which is properly allocable to the risks~~
 95 ~~or exposures located in this state.~~

96 Section 4. Section 626.9362, Florida Statutes, is created
 97 to read:

98 626.9362 Cooperative reciprocal agreement authorized for
 99 collection and allocation of certain nonadmitted insurance
 100 taxes.-

101 (1) The Department of Financial Services and the Office of
 102 Insurance Regulation may enter into a cooperative reciprocal
 103 agreement with another state or group of states for the purpose
 104 of, but not limited to, the collection and allocation of
 105 nonadmitted insurance taxes for multistate risks pursuant to the
 106 federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA)
 107 which was incorporated into the Dodd-Frank Wall Street Reform
 108 and Consumer Protection Act, Pub. L. No. 111-203, July 21, 2010.

109 (2) The terms of the agreement may include, but are not
 110 limited to, the following:

- 111 (a) Creating a clearinghouse for the purpose of
- 112 facilitating the receipt and disbursement of nonadmitted
- 113 insurance taxes.
- 114 (b) Specifying requirements and time periods for
- 115 reporting.
- 116 (c) Determining methods for the collection and forwarding
- 117 of nonadmitted insurance taxes to another state.
- 118 (d) Specifying a premium tax allocation formula for multi-
- 119 state risk nonadmitted insurance.
- 120 (e) Providing for audits and the exchange of information.
- 121 (f) Facilitating the administration of the cooperative
- 122 reciprocal agreement in a reasonable manner.
- 123 (3) The Florida Surplus Lines Service Office must
- 124 implement any cooperative reciprocal agreement entered into by
- 125 the Department Of Financial Services and the Office of Insurance
- 126 Regulation under this section and has the authority to collect
- 127 the total tax imposed on a multi-state risk nonadmitted
- 128 insurance premium.
- 129 (4) The department may adopt rules for the administration
- 130 and enforcement of a cooperative reciprocal agreement entered
- 131 into with another state or group of states under this section.
- 132 (5) Notwithstanding any other provision of law to the
- 133 contrary, this section and any cooperative reciprocal agreement
- 134 entered into with another state or group of states under this
- 135 section control the collection and allocation of nonadmitted
- 136 insurance taxes for multistate risks.

137 Section 5. Subsection (3) of section 626.938, Florida
 138 Statutes, is amended to read:

139 626.938 Report and tax of independently procured
 140 coverages.—

141 (3) For the general support of the government of this
 142 state, there is levied upon the obligation, chose in action, or
 143 right represented by the premium charged for such insurance a
 144 tax at the rate of 5 percent of the gross amount of such premium
 145 and a 0.3 percent service fee pursuant to s. 626.9325. If the
 146 policy covers risks or exposures only partially in this state
 147 and this state is the home state as defined by the federal
 148 Nonadmitted and Reinsurance Reform Act of 2010 (NRRA), the tax
 149 and service fee payable shall be computed on the gross premium.

150 The insured shall withhold the amount of the tax and service fee
 151 from the amount of premium charged by and otherwise payable to
 152 the insurer for such insurance. On or before the 45th day
 153 following each calendar quarter ~~Within 30 days~~ after the
 154 insurance is procured, continued, or renewed, ~~and simultaneously~~
 155 ~~with the filing of the report provided for in subsection (1)~~
 156 ~~with the Florida Surplus Lines Service Office,~~ the insured shall
 157 make payable to the department the amount of the tax and make
 158 payable to the Florida Surplus Lines Service Office the amount
 159 of the service fee. The insured shall remit the tax and the
 160 service fee to the Florida Surplus Lines Service Office. The
 161 Florida Surplus Lines Service Office shall forward to the
 162 department the taxes, and any interest collected pursuant to
 163 subsection (5), within 10 days after receipt.

164 Section 6. This act shall take effect upon becoming a law.