



706004

LEGISLATIVE ACTION

Senate

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House

The Committee on Budget (Hays) recommended the following:

Senate Amendment

Delete lines 1431 - 1492
and insert:

d. Notwithstanding any other provision of law, for purposes of a depopulation, take-out, or keep-out program adopted by the corporation, including an initial or renewal offer of coverage made to a policyholder removed from the corporation pursuant to such program, an eligible surplus lines insurer may participate in the program in the same manner and on the same terms as an authorized insurer, except as provided under this subparagraph.

(I) To qualify for participation, the surplus lines insurer must first obtain approval from the office for its depopulation,



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14 take-out, or keep-out plan and then comply with all of the
15 corporation's requirements for such plan applicable to admitted
16 insurers and with all statutory provisions applicable to the
17 removal of policies from the corporation.

18 (II) In considering a surplus lines insurer's request for
19 approval for its plan, the office must determine that the
20 surplus lines insurer meets the following requirements:

21 (A) Maintains surplus of \$50 million on a company or pooled
22 basis;

23 (B) Maintains an A.M. Best Financial Strength Rating of "A-
24 " or better;

25 (C) Maintains reserves, surplus, reinsurance, and
26 reinsurance equivalents sufficient to cover the insurer's 100-
27 year probable maximum hurricane loss at least twice in a single
28 hurricane season, and submits such reinsurance to the office to
29 review for purposes of the take-out;

30 (D) Provides prominent notice to the policyholder before
31 the assumption of the policy that surplus lines policies are not
32 provided coverage by the Florida Insurance Guaranty Association,
33 and an outline of any substantial differences in coverage
34 between the existing policy and the policy being offered to the
35 insured; and

36 (E) Provides similar policy coverage.

37
38 This sub-sub-subparagraph does not subject any surplus lines
39 insurer to requirements in addition to part VIII of chapter 626.
40 Surplus lines brokers making an offer of coverage under this
41 sub-subparagraph are not required to comply with s.
42 626.916(1)(a), (b), (c), and (e).



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43 (III) Within 10 days after the date of assumption, the
44 surplus lines insurer assuming policies from the corporation
45 must remit a special deposit equal to the unearned premium net
46 of unearned commissions on the assumed block of business to the
47 Department of Financial Services, Bureau of Collateral
48 Securities. The surplus lines insurer shall submit to the office
49 with the initial deposit an accounting of the policies assumed
50 and the amount of unearned premium for such policies along with
51 a sworn affidavit attesting to its accuracy by an officer of the
52 surplus lines insurer. Thereafter, the surplus lines insurer
53 shall make a filing within 10 days following each calendar
54 quarter, attesting to the unearned premium in force for the
55 previous quarter on policies assumed from the corporation, and
56 shall submit additional funds if the special deposit is
57 insufficient to cover the unearned premium on assumed policies,
58 or may receive a return of funds within 60 days if the special
59 deposit exceeds the amount of unearned premium required for
60 assumed policies. The special deposit is an asset of the surplus
61 lines insurer which is held by the department for the benefit of
62 state policyholders of the surplus lines insurer in the event of
63 the insolvency of the surplus lines insurer. If an order of
64 liquidation is entered in any state against the surplus lines
65 insurer, the department may use the special deposit for payment
66 of unearned premium or policy claims, return all or part of the
67 deposit to the domiciliary receiver, or use the funds in
68 accordance with any action authorized under part I of chapter
69 631 or in compliance with any order of a court with jurisdiction
70 over the insolvency.

71 (IV) Surplus lines brokers representing a surplus lines



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72 insurer on a take-out program must obtain confirmation, in
73 written or e-mail form, from each producing agent in advance
74 stating that the agent is willing to participate in the take-out
75 program with the surplus lines insurer engaging in the take-out
76 program. The take-out program is also subject to s. 627.3517. If
77 a policyholder is selected for removal from the corporation by a
78 surplus lines insurer and an admitted carrier, the offer of
79 coverage from the admitted carrier shall be given priority by
80 the corporation.

81 4. The plan must ~~shall~~ provide for the deferment, in whole
82 or in part, of the assessment of an assessable insurer, other
83 than an emergency assessment collected from policyholders
84 pursuant to sub-subparagraph (b)3.d., if the office finds that
85 payment of the assessment would endanger or impair the solvency
86 of the insurer. If ~~In the event~~ an assessment against an
87 assessable insurer is deferred in whole or in part, the amount
88 ~~by which such assessment is~~ deferred may be assessed against the
89 other assessable insurers in a manner consistent with the basis
90 for assessments set forth in paragraph (b).

91 5. ~~Effective July 1, 2007,~~ In order to evaluate the costs
92 and benefits of approved take-out plans, if the corporation pays
93 a bonus or other payment to an insurer for an approved take-out
94 plan, it shall maintain a record of the address or such other
95 identifying information on the property or risk removed in order
96 to track if and when the property or risk is later insured by
97 the corporation.

98 6. Any policy taken out, assumed, or removed from the
99 corporation is, as of the effective date of the take-out,
100 assumption, or removal, direct insurance issued by the insurer



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101 and not by the corporation, even if the corporation continues to
102 service the policies. This subparagraph applies to policies of
103 the corporation and not policies taken out, assumed, or removed
104 from any other entity.