

By the Committees on Budget Subcommittee on Finance and Tax; and Banking and Insurance; and Senators Fasano and Richter

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

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30 insurers to pay the applicable premium tax to the
31 department and the service fee to the Florida Surplus
32 Lines Service Office on or before a specified time;
33 providing an effective date.
34

35 WHEREAS, the 111th Congress passed the Nonadmitted and
36 Reinsurance Reform Act of 2010 (NRRRA), and

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

42 WHEREAS, as a result of the NRRRA, premium tax payments that
43 would otherwise be paid to Florida will be paid to other states,
44 and

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

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

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

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Subsection (1) of section 626.931, Florida

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59 Statutes, is amended to read:

60 626.931 Agent affidavit and insurer reporting
61 requirements.-

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

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

72 626.932 Surplus lines tax.-

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

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

81 626.9325 Service fee.-

82 (2) (a) The surplus lines agent shall pay on or before the
83 45th day following each calendar quarter ~~monthly~~ to the Florida
84 Surplus Lines Service Office the fees related to all policies
85 reported during the previous calendar quarter ~~month~~ in
86 accordance with the plan of operation of the Florida Surplus
87 Lines Service Office.

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

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

98 Section 4. Section 626.9362, Florida Statutes, is created
99 to read:

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

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

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

113 (a) Creating a clearinghouse for the purpose of
114 facilitating the receipt and disbursement of nonadmitted
115 insurance taxes.

116 (b) Specifying requirements and time periods for reporting.

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117 (c) Determining methods for the collection and forwarding
118 of nonadmitted insurance taxes to another state.

119 (d) Specifying a premium tax allocation formula for multi-
120 state risk nonadmitted insurance.

121 (e) Providing for audits and the exchange of information.

122 (f) Facilitating the administration of the cooperative
123 reciprocal agreement in a reasonable manner.

124 (g) Providing for the collection of a service fee to fund
125 the operations and activities of the clearinghouse which shall
126 not exceed 0.3 percent of the gross premium on transactions
127 processed by the clearinghouse.

128 (3) The Florida Surplus Lines Service Office must implement
129 any cooperative reciprocal agreement entered into by the
130 Department Of Financial Services and the Office of Insurance
131 Regulation under this section and has the authority to collect
132 the total tax imposed on a multistate risk nonadmitted insurance
133 premium.

134 (4) The department and the Office of Insurance Regulation
135 may adopt rules for the administration and enforcement of a
136 cooperative reciprocal agreement entered into with another state
137 or group of states under this section.

138 (5) Notwithstanding any other provision of law to the
139 contrary, this section and any cooperative reciprocal agreement
140 entered into with another state or group of states under this
141 section control the collection and allocation of nonadmitted
142 insurance taxes for multistate risks.

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

145 626.938 Report and tax of independently procured

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146 coverages.—

147 (3) For the general support of the government of this
148 state, there is levied upon the obligation, chose in action, or
149 right represented by the premium charged for such insurance a
150 tax at the rate of 5 percent of the gross amount of such premium
151 and a 0.3 percent service fee pursuant to s. 626.9325. If the
152 policy covers risks or exposures only partially in this state
153 and this state is the home state as defined by the federal
154 Nonadmitted and Reinsurance Reform Act of 2010 (NRRA), the tax
155 and service fee payable shall be computed on the gross premium.
156 The insured shall withhold the amount of the tax and service fee
157 from the amount of premium charged by and otherwise payable to
158 the insurer for such insurance. On or before the 45th day
159 following each calendar quarter ~~Within 30 days~~ after the
160 insurance is procured, continued, or renewed, ~~and simultaneously~~
161 ~~with the filing of the report provided for in subsection (1)~~
162 ~~with the Florida Surplus Lines Service Office,~~ the insured shall
163 make payable to the department the amount of the tax and make
164 payable to the Florida Surplus Lines Service Office the amount
165 of the service fee. The insured shall remit the tax and the
166 service fee to the Florida Surplus Lines Service Office. The
167 Florida Surplus Lines Service Office shall forward to the
168 department the taxes, and any interest collected pursuant to
169 subsection (5), within 10 days after receipt.

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