HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	HB 5403	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Government Operations Appropriations Subcommittee and Ingram	117 **Y's**	0 **N's**
COMPANION BILLS:	None	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

HB 5403 passed the House on May 2, 2014, and subsequently passed the Senate on May 2, 2014. The bill amends ss. 624.523, 626.932(5), 626.938(7), F.S., and repeals section 9 of chapter 2009-70, Laws of Florida relating to the distribution of Surplus Lines tax revenues.

Surplus lines insurance is a high risk category of insurance that consumers can pursue when there is no market available for insurance coverage through standard insurance carriers. Surplus lines insurance provides consumers with an option for access to insurance coverage when Florida-authorized insurers do not provide it. The Office of Insurance Regulation (OIR) approves companies, who are not licensed in Florida, to provide coverage for surplus lines insurance and to transact insurance in the state as "eligible" insurers.

Section 626.932, F.S., provides for a five percent tax on premiums of surplus lines insurance, independently procured coverage, and insurance provided by risk retention groups. Currently, 100 percent of the tax revenue generated from the surplus lines premium tax is deposited into the General Revenue Fund. However, the 100 percent distribution of surplus lines tax proceeds to the General Revenue Fund will sunset July 1, 2014, and the distribution percentages will revert to prior law.

Prior to July 1, 2009, 15.74 percent of surplus lines tax revenues were deposited to the credit of the Insurance Regulatory Trust Fund (IRTF) in the Department of Financial Services (DFS) and 84.26 percent of the tax proceeds were deposited into the General Revenue Fund. Chapter 2009-70, Laws of Florida, redirected all surplus lines tax revenues to the General Revenue Fund.

The Revenue Estimating Conference held March 12, 2014 indicated that the pending July 1, 2014 sunset of section 9 of ch. 2009-70, Laws of Florida, would redirect $34.0 million from the General Revenue Fund to the IRTF within the DFS.

The bill amends ss. 624.523, 626.932(5), 626.938(7), F.S., and repeals section 9 of ch. 2009-70, Laws of Florida, to provide for a split distribution of surplus lines tax revenues. The bill provides that revenues collected under these sections are to be credited in the amount of 8.8 percent to be deposited into the IRTF within the DFS and 91.2 percent to be deposited into the General Revenue Fund. This fund split provides that $19.0 million would be credited to the IRTF and $198.7 million would be credited to the General Revenue Fund.

The General Revenue Fund appropriations within the Fiscal Year 2014-2015 General Appropriations Act contain the $198.7 million in surplus lines tax revenues this bill provides.

The bill was approved by the Governor on June 2, 2014, ch. 2014-60, L.O.F., and became effective on that date, except as otherwise provided.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Surplus lines insurance is a high risk category of insurance that consumers pursue when there is no market available for insurance coverage through standard insurance carriers[1]. The Office of Insurance Regulation (OIR) approves companies, who are not licensed in Florida, to provide coverage for this type of insurance and to transact insurance in the state as "eligible" insurers. Surplus lines insurance is covered in ss. 626.913 through 626.937, F.S., and provides consumers with an option for access to insurance coverage when Florida-authorized insurers do not provide it.

In order for an agent to place an insured with a surplus lines carrier, agents must attempt through a "diligent effort"[2] to place a policy with a Florida-authorized insurer before placing the policy with a surplus lines carrier. "Diligent effort" has been demonstrated when the agent has three written rejections of coverage from authorized insurers currently writing this type of insurance coverage.

The rates that surplus lines insurers charge may not be less than rates that are offered on similar coverage, with similar risks, by authorized insurers writing policies in Florida. The types of insurance coverage available from surplus lines insurers include coverage for some sea vessels', commercial aircraft, and homeowners' insurance in hurricane-prone areas.

Agents who provide surplus lines coverage must be registered with the Department of Financial Services (DFS) and meet stringent qualifications for licensure. Risk retention groups are corporations or limited liability associations who purchase liability insurance on a group basis in order to assume and spread all or any portion of the liability exposure of its group members[3].

Current law provides for a five percent tax on premiums for surplus lines insurance, independently procured coverage and insurance provided by risk retention groups. The distribution set forth for surplus lines insurance is also applied to insurance provided by risk retention groups. Presently, 100 percent of the tax proceeds are distributed to the General Revenue Fund. However, the 100 percent distribution of surplus lines tax proceeds to the General Revenue Fund will sunset July 1, 2014, and the distribution percentages will revert to prior law.

Prior to July 1, 2009, 15.74 percent of surplus lines tax revenues were deposited to the credit of the Insurance Regulatory Trust Fund within the DFS and 84.26 percent of the tax proceeds were deposited into the General Revenue Fund. Chapter 2009-70, Laws of Florida, redirected all surplus lines tax revenues to the General Revenue Fund.

The Insurance Regulatory Trust Fund (IRTF) funds the expenditures of the OIR and partially funds the DFS for its administrative and regulatory functions.

If current law sunsets, 15.74 percent of surplus lines tax proceeds will be deposited into the IRTF within the DFS and 84.26 percent of the tax proceeds will be deposited into the General Revenue Fund.

Historical information on surplus lines revenue collections (and estimate for Fiscal Year 2014-2015) based on current law is as follows:

[1] s. 626.913, F.S.
[2] s. 626.914(4), F.S.
[3] s. 627.942(9)(a), F.S.

Surplus Lines Revenue Collection And Distribution[4]			
Fiscal Year	Total Collections	GR Distribution	IRTF Distribution
2009-2010	$ 189,200,000	$ 189,200,000	$ -
2010-2011	$ 178,000,000	$ 178,000,000	$ -
2011-2012	$ 170,300,000	$ 170,300,000	$ -
2012-2013	$ 198,900,000	$ 198,900,000	$ -
2013-2014	$ 204,900,000	$ 204,900,000	$ -
2014-2015[5]	$ 216,200,000	$ 182,170,120	$ 34,029,880

The Insurance Regulatory Trust Fund distribution figure shown above reflects the total estimated surplus lines receipts to the IRTF of $34.0 million, if current law were allowed to sunset June 30, 2014. However, $34.0 million is prior to the deduction of the eight percent general revenue service charge on trust funds, which is deposited into the General Revenue Fund. The eight percent service charge to the IRTF amounts to $2.7 million, which provides a net trust fund increase of revenues to the IRTF of $31.3 million.

Effect of Proposed Changes

The bill amends ss. 626.523, 626.932(5), 626.938(7), F.S., and repeals section 9 of ch. 2009-70, Laws of Florida, to provide for a split distribution of surplus lines tax revenues. The revenues collected under these sections are to be credited in the amount of 8.8 percent to be deposited into the IRTF within the DFS and 91.2 percent to be deposited into the General Revenue Fund.

Updated surplus lines revenue collections as a result of provisions of the bill are as follows:

Surplus Lines Revenue Collection And Distribution			
Fiscal Year	Total Collections	GR Distribution (91.2%)	IRTF Distribution (8.8%)
2009-2010	$ 189,200,000	$ 189,200,000	$ -
2010-2011	$ 178,000,000	$ 178,000,000	$ -
2011-2012	$ 170,300,000	$ 170,300,000	$ -
2012-2013	$ 198,900,000	$ 198,900,000	$ -
2013-2014	$ 204,900,000	$ 204,900,000	$ -
2014-2015	$ 216,200,000	$ 197,174,400	$ 19,025,600

The IRTF and general revenue distributions figure shown above reflect the total estimated surplus lines receipts of $19.0 million to be credited to the IRTF and $197.2 million to be credited to the General Revenue Fund. However, $19.0 million is prior to the deduction of the eight percent general revenue service charge on trust funds, which is deposited into the General Revenue Fund. The eight percent service charge on funds deposited into the IRTF as a result of the bill amount to $1.5 million, which would provide a net trust fund increase of revenues to the IRTF of $17.5 million. The General Revenue Fund, including the service charge applied to funds deposited into the IRTF, would be credited with a total of $198.7 million.

Except as otherwise provided, this bill is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

[4] Revenue amounts gathered from the March 12, 2014 General Revenue Fund Revenue Estimating Conference. Available at: http://edr.state.fl.us/Content/conferences/generalrevenue/index.cfm (Last accessed: March 12, 2014).
[5] These surplus lines revenue collection figures reflect the sunset of section 9 of ch. 2009-70, L.O.F., which directed 100 percent of surplus lines tax revenue collections to the General Revenue Fund. These figures represent the prior law split of 15.74 percent of collections deposited to the credit of the IRTF and 84.26 percent of collections deposited to the credit of the General Revenue Fund.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The fund split provision of the bill provides that $19.0 million in surplus lines revenue would be credited to the IRTF. However, $19.0 million is prior to the deduction of the eight percent general revenue service charge on trust funds, which is deposited into the General Revenue Fund. The eight percent service charge on funds deposited into the IRTF amount to $1.5 million, which would provide a net trust fund increase of revenues to the IRTF of $17.5 million.

The General Revenue Fund, including the service charge applied to funds deposited into the IRTF, would be credited with a total of $198.7 million.

The General Revenue Fund appropriations within the Fiscal Year 2014-2015 General Appropriations Act contain the $198.7 million in surplus lines tax revenues this bill provides.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.