

By the Committees on Rules; Judiciary; and Banking and Insurance; and Senator Smith

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1                                   A bill to be entitled  
2       An act relating to insurance; amending s. 408.909,  
3       F.S.; revising the due date for an annual report  
4       relating to health flex plans which must be submitted  
5       by the Office of Insurance Regulation and the Agency  
6       for Health Care Administration; amending s. 440.13,  
7       F.S.; revising the due date for a biennial report  
8       relating to methods to improve the workers'  
9       compensation health care delivery system which must be  
10      submitted by a certain three-member panel; amending s.  
11      624.413, F.S.; increasing the number of years that a  
12      specified examination report remains valid and may be  
13      considered for the purpose of applying for a  
14      certificate of authority; amending s. 624.425, F.S.;  
15      providing that the absence of a countersignature does  
16      not affect the validity of a policy or contract of  
17      insurance; amending s. 626.916, F.S.; revising the  
18      required conditions for the export of insurance  
19      coverage to delete a provision specifying how  
20      reasonableness shall be assessed under certain  
21      circumstances; amending s. 626.931, F.S.; deleting  
22      provisions that require surplus lines agents to file a  
23      quarterly affidavit with the Florida Surplus Lines  
24      Office; amending s.627.211, F.S.; revising the due  
25      date for an annual report relating to certain workers'  
26      compensation issues which must be submitted by the  
27      office; amending s. 627.971, F.S.; providing that the  
28      term "financial guaranty insurance" does not include  
29      guarantees of higher education loans unless written by

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30 a financial guaranty insurance corporation; amending  
31 ss. 626.932, 626.935, and 626.936, F.S.; conforming  
32 provisions to changes made by the act; providing an  
33 effective date.

34  
35 Be It Enacted by the Legislature of the State of Florida:

36  
37 Section 1. Subsection (9) of section 408.909, Florida  
38 Statutes, is amended to read:

39 408.909 Health flex plans.—

40 (9) PROGRAM EVALUATION.—The agency and the office shall  
41 evaluate the pilot program and its effect on the entities that  
42 seek approval as health flex plans, on the number of enrollees,  
43 and on the scope of the health care coverage offered under a  
44 health flex plan; shall provide an assessment of the health flex  
45 plans and their potential applicability in other settings; shall  
46 use health flex plans to gather more information to evaluate  
47 low-income consumer driven benefit packages; and shall, by  
48 January 15, 2016 ~~January 1, 2005~~, and annually thereafter,  
49 jointly submit a report to the Governor, the President of the  
50 Senate, and the Speaker of the House of Representatives.

51 Section 2. Paragraph (e) of subsection (12) of section  
52 440.13, Florida Statutes, is amended to read:

53 440.13 Medical services and supplies; penalty for  
54 violations; limitations.—

55 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM  
56 REIMBURSEMENT ALLOWANCES.—

57 (e) In addition to establishing the uniform schedule of  
58 maximum reimbursement allowances, the panel shall:

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59 1. Take testimony, receive records, and collect data to  
60 evaluate the adequacy of the workers' compensation fee schedule,  
61 nationally recognized fee schedules and alternative methods of  
62 reimbursement to health care providers and health care  
63 facilities for inpatient and outpatient treatment and care.

64 2. Survey health care providers and health care facilities  
65 to determine the availability and accessibility of workers'  
66 compensation health care delivery systems for injured workers.

67 3. Survey carriers to determine the estimated impact on  
68 carrier costs and workers' compensation premium rates by  
69 implementing changes to the carrier reimbursement schedule or  
70 implementing alternative reimbursement methods.

71 4. Submit recommendations on or before January 15, 2017  
72 ~~January 1, 2003~~, and biennially thereafter, to the President of  
73 the Senate and the Speaker of the House of Representatives on  
74 methods to improve the workers' compensation health care  
75 delivery system.

76  
77 The department, as requested, shall provide data to the panel,  
78 including, but not limited to, utilization trends in the  
79 workers' compensation health care delivery system. The  
80 department shall provide the panel with an annual report  
81 regarding the resolution of medical reimbursement disputes and  
82 any actions pursuant to subsection (8). The department shall  
83 provide administrative support and service to the panel to the  
84 extent requested by the panel. For prescription medication  
85 purchased under the requirements of this subsection, a  
86 dispensing practitioner shall not possess such medication unless  
87 payment has been made by the practitioner, the practitioner's

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88 professional practice, or the practitioner's practice management  
89 company or employer to the supplying manufacturer, wholesaler,  
90 distributor, or drug repackager within 60 days of the dispensing  
91 practitioner taking possession of that medication.

92 Section 3. Paragraph (f) of subsection (1) of section  
93 624.413, Florida Statutes, is amended to read:

94 624.413 Application for certificate of authority.—

95 (1) To apply for a certificate of authority, an insurer  
96 shall file its application therefor with the office, upon a form  
97 adopted by the commission and furnished by the office, showing  
98 its name; location of its home office and, if an alien insurer,  
99 its principal office in the United States; kinds of insurance to  
100 be transacted; state or country of domicile; and such additional  
101 information as the commission reasonably requires, together with  
102 the following documents:

103 (f) If a foreign or alien insurer, a copy of the report of  
104 the most recent examination of the insurer certified by the  
105 public official having supervision of insurance in its state of  
106 domicile or of entry into the United States. The end of the most  
107 recent year covered by the examination must be within the 5-year  
108 ~~3-year~~ period preceding the date of application. In lieu of the  
109 certified examination report, the office may accept an audited  
110 certified public accountant's report prepared on a basis  
111 consistent with the insurance laws of the insurer's state of  
112 domicile, certified by the public official having supervision of  
113 insurance in its state of domicile or of entry into the United  
114 States.

115 Section 4. Subsection (6) is added to section 624.425,  
116 Florida Statutes, to read:

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117 624.425 Agent countersignature required, property,  
118 casualty, surety insurance.-

119 (6) The absence of a countersignature required under this  
120 section does not affect the validity of a policy or contract of  
121 insurance.

122 Section 5. Paragraph (a) of subsection (1) of section  
123 626.916, Florida Statutes, is amended to read:

124 626.916 Eligibility for export.-

125 (1) No insurance coverage shall be eligible for export  
126 unless it meets all of the following conditions:

127 (a) The full amount of insurance required must not be  
128 procurable, after a diligent effort has been made by the  
129 producing agent to do so, from among the insurers authorized to  
130 transact and actually writing that kind and class of insurance  
131 in this state, and the amount of insurance exported shall be  
132 only the excess over the amount so procurable from authorized  
133 insurers. Surplus lines agents must verify that a diligent  
134 effort has been made by requiring a properly documented  
135 statement of diligent effort from the retail or producing agent.  
136 However, to be in compliance with the diligent effort  
137 requirement, the surplus lines agent's reliance must be  
138 reasonable under the particular circumstances surrounding the  
139 export of that particular risk. ~~Reasonableness shall be assessed~~  
140 ~~by taking into account factors which include, but are not~~  
141 ~~limited to, a regularly conducted program of verification of the~~  
142 ~~information provided by the retail or producing agent.~~

143 Declinations must be documented on a risk-by-risk basis. If it  
144 is not possible to obtain the full amount of insurance required  
145 by layering the risk, it is permissible to export the full

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146 amount.

147 Section 6. Section 626.931, Florida Statutes, is amended to  
148 read:

149 626.931 ~~Agent affidavit and Insurer reporting~~  
150 requirements.-

151 ~~(1) Each surplus lines agent shall on or before the 45th~~  
152 ~~day following each calendar quarter file with the Florida~~  
153 ~~Surplus Lines Service Office an affidavit, on forms as~~  
154 ~~prescribed and furnished by the Florida Surplus Lines Service~~  
155 ~~Office, stating that all surplus lines insurance transacted by~~  
156 ~~him or her during such calendar quarter has been submitted to~~  
157 ~~the Florida Surplus Lines Service Office as required.~~

158 ~~(2) The affidavit of the surplus lines agent shall include~~  
159 ~~efforts made to place coverages with authorized insurers and the~~  
160 ~~results thereof.~~

161 (1)~~(3)~~ Each foreign insurer accepting premiums shall, on or  
162 before the end of the month following each calendar quarter,  
163 file with the Florida Surplus Lines Service Office a verified  
164 report of all surplus lines insurance transacted by such insurer  
165 for insurance risks located in this state during such calendar  
166 quarter.

167 (2)~~(4)~~ Each alien insurer accepting premiums shall, on or  
168 before June 30 of each year, file with the Florida Surplus Lines  
169 Service Office a verified report of all surplus lines insurance  
170 transacted by such insurer for insurance risks located in this  
171 state during the preceding calendar year.

172 (3)~~(5)~~ The department may waive the filing requirements  
173 described in subsections (1) and (2) ~~(3)~~ and ~~(4)~~.

174 (4)~~(6)~~ Each insurer's report and supporting information

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175 shall be in a computer-readable format as determined by the  
176 Florida Surplus Lines Service Office or shall be submitted on  
177 forms prescribed by the Florida Surplus Lines Service Office and  
178 shall show for each applicable agent:

179 (a) A listing of all policies, certificates, cover notes,  
180 or other forms of confirmation of insurance coverage or any  
181 substitutions thereof or endorsements thereto and the  
182 identifying number; and

183 (b) Any additional information required by the department  
184 or Florida Surplus Lines Service Office.

185 Section 7. Subsection (6) of section 627.211, Florida  
186 Statutes, is amended to read

187 627.211 Deviations; workers' compensation and employer's  
188 liability insurances.-

189 (6) The office shall submit an annual report to the  
190 President of the Senate and the Speaker of the House of  
191 Representatives by January 15 ~~±~~ of each year which evaluates  
192 competition in the workers' compensation insurance market in  
193 this state. The report must contain an analysis of the  
194 availability and affordability of workers' compensation coverage  
195 and whether the current market structure, conduct, and  
196 performance are conducive to competition, based upon economic  
197 analysis and tests. The purpose of this report is to aid the  
198 Legislature in determining whether changes to the workers'  
199 compensation rating laws are warranted. The report must also  
200 document that the office has complied with the provisions of s.  
201 627.096 which require the office to investigate and study all  
202 workers' compensation insurers in the state and to study the  
203 data, statistics, schedules, or other information as it finds

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204 necessary to assist in its review of workers' compensation rate  
205 filings.

206 Section 8. Paragraph (b) of subsection (1) of section  
207 627.971, Florida Statutes, is amended to read  
208 627.971 Definitions.—As used in this part:

209 (1)

210 (b) However, "financial guaranty insurance" does not  
211 include:

212 1. Insurance of a loss resulting from an event described in  
213 paragraph (a), if the loss is payable only upon the occurrence  
214 of any of the following, as specified in a surety bond,  
215 insurance policy, or indemnity contract:

216 a. A fortuitous physical event;

217 b. A failure of or deficiency in the operation of  
218 equipment; or

219 c. An inability to extract or recover a natural resource;

220 2. An individual or schedule public official bond;

221 3. A court bond required in connection with judicial,  
222 probate, bankruptcy, or equity proceedings, including a waiver,  
223 probate, open estate, or life tenant bond;

224 4. A bond running to a federal, state, county, municipal  
225 government, or other political subdivision, as a condition  
226 precedent to the granting of a license to engage in a particular  
227 business or of a permit to exercise a particular privilege;

228 5. A loss security bond or utility payment indemnity bond  
229 running to a governmental unit, railroad, or charitable  
230 organization;

231 6. A lease, purchase and sale, or concessionaire surety  
232 bond;



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233           7. Credit unemployment insurance on a debtor in connection  
234 with a specific loan or other credit transaction, to provide  
235 payments to a creditor in the event of unemployment of the  
236 debtor for the installments or other periodic payments becoming  
237 due while a debtor is unemployed;

238           8. Credit insurance indemnifying a manufacturer, merchant,  
239 or educational institution which extends credit against loss or  
240 damage resulting from nonpayment of debts owed to her or him for  
241 goods or services provided in the normal course of her or his  
242 business;

243           9. Guaranteed investment contracts that are issued by life  
244 insurance companies and that provide that the life insurer will  
245 make specified payments in exchange for specific premiums or  
246 contributions;

247           10. Mortgage guaranty insurance as defined in s. 635.011(1)  
248 or s. 635.021;

249           11. Indemnity contracts or similar guaranties, to the  
250 extent that they are not otherwise limited or proscribed by this  
251 part, in which a life insurer guarantees:

252           a. Its obligations or indebtedness or the obligations or  
253 indebtedness of a subsidiary of which it owns more than 50  
254 percent, other than a financial guaranty insurance corporation,  
255 if:

256           (I) For any such obligations or indebtedness that are  
257 backed by specific assets, such assets are at all times owned by  
258 the insurer or the subsidiary; and

259           (II) For the obligations or indebtedness of the subsidiary  
260 that are not backed by specific assets of the life insurer, the  
261 guaranty terminates once the subsidiary ceases to be a

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262 subsidiary; or

263       b. The obligations or indebtedness, including the  
264 obligation to substitute assets where appropriate, with respect  
265 to specific assets acquired by a life insurer in the course of  
266 normal investment activities and not for the purpose of resale  
267 with credit enhancement, or guarantees obligations or  
268 indebtedness acquired by its subsidiary, provided that the  
269 assets so acquired have been:

270       (I) Acquired by a special purpose entity where the sole  
271 purpose is to acquire specific assets of the life insurer or the  
272 subsidiary and issue securities or participation certificates  
273 backed by such assets; or

274       (II) Sold to an independent third party; or

275       c. The obligations or indebtedness of an employee or agent  
276 of the life insurer;

277       12. Any form of surety insurance as defined in s. 624.606;

278       13. Guarantees of higher education loans, unless written by  
279 a financial guaranty insurance corporation; or

280       ~~14.13.~~ Any other form of insurance covering risks which the  
281 office determines to be substantially similar to any of the  
282 foregoing.

283       Section 9. Paragraph (a) of subsection (2) of section  
284 626.932, Florida Statutes, is amended to read:

285       626.932 Surplus lines tax.—

286       (2) (a) The surplus lines agent shall make payable to the  
287 department the tax related to each calendar quarter's business  
288 as reported to the Florida Surplus Lines Service Office, and  
289 remit the tax to the Florida Surplus Lines Service Office on or  
290 before the 45th day following each calendar quarter ~~at the same~~

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291 ~~time as provided for the filing of the quarterly affidavit,~~  
292 ~~under s. 626.931.~~ The Florida Surplus Lines Service Office shall  
293 forward to the department the taxes and any interest collected  
294 pursuant to paragraph (b), within 10 days of receipt.

295 Section 10. Paragraph (d) of subsection (1) of section  
296 626.935, Florida Statutes, is amended to read:

297 626.935 Suspension, revocation, or refusal of surplus lines  
298 agent's license.—

299 (1) The department shall deny an application for, suspend,  
300 revoke, or refuse to renew the appointment of a surplus lines  
301 agent and all other licenses and appointments held by the  
302 licensee under this code, on any of the following grounds:

303 ~~(d) Failure to make and file his or her affidavit or~~  
304 ~~reports when due as required by s. 626.931.~~

305 Section 11. Subsection (1) of section 626.936, Florida  
306 Statutes, is amended to read:

307 626.936 Failure to file reports or pay tax or service fee;  
308 administrative penalty.—

309 (1) Any licensed surplus lines agent who neglects to file a  
310 report ~~or an affidavit~~ in the form and within the time required  
311 or provided for in the Surplus Lines Law may be fined up to \$50  
312 per day for each day the neglect continues, beginning the day  
313 after the report ~~or affidavit~~ was due until the date the report  
314 ~~or affidavit~~ is received. All sums collected under this section  
315 shall be deposited into the Insurance Regulatory Trust Fund.

316 Section 12. This act shall take effect July 1, 2015.